

STATE OF MISSOURI DOMESTIC VIOLENCE TASK FORCE  
PRESIDED OVER BY ATTORNEY GENERAL CHRIS KOSTER

SEPTEMBER 20, 2010  
COLUMBIA, MISSOURI

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1           ATTORNEY GENERAL KOSTER: Good morning,  
 2 everybody. I want to thank everyone for being  
 3 here this morning. We'll try and keep this on  
 4 time throughout the morning and early afternoon  
 5 if we go that far.

6           I'm very excited to host the second in  
 7 our series of meetings, and I appreciate  
 8 everyone's commitment to this issue of better  
 9 addressing the scourge of domestic violence in  
 10 our state.

11          For 10 years I served as prosecuting  
 12 attorney of Cass County in Western Missouri, and  
 13 anyone who has served as prosecutor for any  
 14 length of time, including Boone County's elected  
 15 prosecutor who I see has entered the room.

16          Dan, it's nice to see you this morning.

17          Anyone who has served as prosecuting  
 18 attorney for any length of time, even a week or  
 19 just one day, knows the devastating impact that  
 20 domestic violence has on individuals, children,  
 21 families and even communities. Many of the  
 22 cases I dealt with stay with me even today.

23          Nearly all of them involved acute physical  
 24 violence, several ended in homicide.

25          When I was running for attorney general

	APPEARANCES	Page 3
1	Attorney General Chris Koster	
2	Senator Kurt Schaefer	
3	Representative Chris Kelly	
4	Representative Stacey Newman	
5	Representative Stephen Webber	
6	Representative Mary Still	
7	Missouri Coalition Against Domestic & Sexual	
8	Violence: Colleen Coble	
9	Missouri Office of Prosecution Services: Jason	
10	Lamb	
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1           I promised Colleen Coble, the woman sitting to  
 2 my right, the executive director of the Missouri  
 3 Coalition Against Domestic Violence, that I  
 4 would bring together the entities involved in  
 5 our state's system for dealing with domestic  
 6 violence: police, sheriffs, prosecutors, the  
 7 courts, victim advocates, probation and parole  
 8 personnel, to take a comprehensive look at our  
 9 laws and practices with an eye toward making our  
 10 system work better than it does today.

11          It has been 30 years since Missouri set  
 12 up its framework for domestic violence laws in  
 13 our state. Thirty years ago then Attorney  
 14 General, John Ashcroft, held a similar statewide  
 15 forum to examine the problem of domestic  
 16 violence. And while the General Assembly has  
 17 passed numerous laws related to domestic  
 18 violence since that time and many of them have  
 19 been very, very good and positive changes, they  
 20 have occurred piecemeal.

21          The goal of this series of meetings is  
 22 to again take a comprehensive review of the laws  
 23 and practices in this area, to identify areas  
 24 where the statutes and local practices fall  
 25 short of protecting victims and preventing

<p>1 domestic violence.</p> <p>2 Personally I think all of us want to 3 learn more about this issue and help highlight 4 best practices in the court system and in law 5 enforcement that they may be replicated across 6 the State of Missouri.</p> <p>7 We had a very productive set of 8 meetings in St. Louis on September 7th. Among 9 those ideas we have a 185-page transcript that 10 was taken that day which will -- is either on 11 the Internet now or will soon be on the 12 Internet, and many of the ideas are articulated 13 there and can be read by the citizens of the 14 State.</p> <p>15 St. Louis County Prosecuting Attorney, 16 Bob McCulloch, for example, at that meeting said 17 that training officers to include -- said 18 training officers to include specific details in 19 their reports of victim's statements when first 20 responding to domestic violence calls would lead 21 to greater opportunity to admit into evidence -- 22 to admit into evidence at any court proceeding 23 if the victim is unable or unwilling to testify. 24 And Judge Michael Burton called for allowing 25 greater judicial flexibility with orders of</p>	Page 6	Page 8
<p>1 protection to extend their terms and include 2 conditions that must be met prior to any 3 dismissal.</p> <p>4 I'm grateful to the members of the 5 legislature who are here today trying to help 6 this problem across the State. You are critical 7 to this process, and I both appreciate and look 8 forward to your comments today and ideas on this 9 important issue. We have two more meetings 10 currently scheduled. The first is today's 11 meeting and then one in Kansas City on September 12 27th.</p> <p>13 If we need more time we will continue 14 this process. I'm committed to investing as 15 much time and effort as we require. Our goal is 16 to develop a comprehensive report with 17 meaningful and detailed recommendations on how 18 we can improve our state's handling of defendant 19 abusers, their victims and the subject of 20 domestic violence as a whole.</p> <p>21 Again, I appreciate your being here 22 today, and I look forward to continuing to build 23 momentum through these meetings as we move 24 across Missouri.</p> <p>25 Let me introduce now the people who are</p>	Page 7	Page 9

3 (Pages 6 to 9)

<p style="text-align: right;">Page 10</p> <p>1 overview of state and federal funding that comes 2 into the State of Missouri and supports the work 3 of domestic violence direct services from the 4 advocacy community through shelters and 5 non-residential programs as well as the funds 6 that support our allies within law enforcement, 7 prosecution and the courts.</p> <p>8 There is a flowchart in your binder. 9 I'm not certain of the tab. It's funding, aptly 10 named, that gives you sort of a color-coded 11 diagram if you wish to refer to that as I begin.</p> <p>12 The first state funding for domestic 13 violence services occurred in Missouri in 1993. 14 It was \$125,000 for all of the programs that 15 existed in the State at that time numbering 16 about 30. The state funds have grown since that 17 time to the current rate of 4.75 million. Those 18 state dollars flow from the Department of Social 19 Services and are appropriated within the 20 Division of Family Services, or the Family 21 Support Division now.</p> <p>22 Just again, by way of anecdote, that 23 first \$125,000 that came into the State was 24 actually a transfer from the horse racing 25 commission which at the time had an annual</p>	<p style="text-align: right;">Page 12</p> <p>1 can see there are three main federal departments 2 that fund domestic violence services, and those 3 are primarily shelter, hotlines, legal advocacy, 4 case management, support groups, therapy and 5 services for children.</p> <p>6 The Department of Justice has the 7 largest amount that they provide to the State of 8 Missouri. In the Victims of Crime Act it's 9 about 7-1/2 million dollars in this current 10 fiscal year. Those aren't federal tax dollars. 11 Those are crime fines that are levied against 12 those convicted of federal crimes. They're put 13 into a program that is allocated each year by 14 Congress. On a percentage basis those funds are 15 then awarded to states. These funds are open to 16 all of those who provide services to victims of 17 crime; again, law enforcement, prosecutors, and 18 not strictly limited just to domestic violence. 19 Sexual assault services, child abuse programs 20 are also funded out of what is a called VOCA 21 funds at the federal level.</p> <p>22 A new program has just been initiated 23 that is on the chart for sexual assault 24 services. The majority of the programs in the 25 State of Missouri are not solely domestic</p>
<p style="text-align: right;">Page 11</p> <p>1 budget of \$125,000 even though horse racing was 2 illegal in the State of Missouri. So having 3 pointed that out your colleagues in the General 4 Assembly at the time felt that it was deserving 5 to transfer those funds to domestic violence 6 services.</p> <p>7 The other notable early days 8 appropriations history is that at the time of 9 the floods, when Governor Mel Carnahan was in 10 office in 1993, we noticed upwards of 50 to 11 60-percent increases in requests for services. 12 And as you recall, that disaster continued over 13 the span of two plus years almost. And through 14 Governor Carnahan's leadership at the time we 15 were able to be the first state in the nation 16 that received funding for domestic violence 17 services as a part of federal disaster relief 18 aide. That is now standard in the federal 19 government's response to states and communities 20 where there have been natural disasters. I'm 21 very proud of that work that happened in the 22 State of Missouri.</p> <p>23 The largest source of funds to support 24 domestic violence programs come from the federal 25 government. If we look at this flowchart you</p>	<p style="text-align: right;">Page 13</p> <p>1 violence programs but they are both sexual 2 assault and domestic violence. Most communities 3 cannot support standalone separate programs 4 except the urban areas. Kansas City and St. 5 Louis have separate rape crisis programs. 6 There's a new federal program under the Violence 7 Against Women Act that is the first time there's 8 even been funds awarded for sexual assault 9 services. I might add there's never been state 10 tax dollars appropriated for sexual assault 11 services.</p> <p>12 Those dollars come in now at just a 13 little over \$275,000 for the entire state. All 14 of these Department of Justice funds are 15 appropriated and designated for distribution 16 through the Department of Public Safety. Sort 17 of a flow from the federal similar department, 18 Department of Justice, down to Missouri's 19 Department of Public Safety.</p> <p>20 The other grant program that is very 21 significant in funding these services is what's 22 know as STOP grants, and Services Training 23 Officers and Prosecution grants that have a 24 federal formula. Thirty-five percent of that 25 formula goes to victim services. The others are</p>

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<p>1 allocated law enforcement, prosecutors and 2 courts.</p> <p>3 There are also discretionary grants 4 that the State is eligible to seek at the 5 federal level. Those are listed; everything 6 from visitation centers to rural grants, 7 transitional housing, which is a chronic need in 8 the State of Missouri and around the country, 9 and then civil legal assistance grants. 10 Missouri has received some or all of those 11 grants in the past. They are often awarded for 12 about three years and then you're done. So 13 there's a problem of sustaining programs that 14 are started with the federal funds, and we in 15 Missouri have nothing to go to with state funds 16 to keep them going.</p> <p>17 The last grant that's in the Department 18 of Public Safety mirrors the federal Victims of 19 Crime Act. It's called the State Services to 20 Victims Fund statutorily established, and it 21 assesses fines on those convicted of crimes in 22 the State of Missouri. \$7.50 a case goes into 23 this fund. There's a funding allocation that is 24 set in the statute. Some of it supports the 25 work of the office of Victims of Crime in DPS,</p>	<p>Page 14</p> <p>1 The more significant grant program is 2 our one piece in the entire funding scheme that 3 provides for prevention work, and that is the 4 Rape Prevention and Education Fund that's also 5 in the Department of Health, and that's about 6 \$730,000, although that is a fund that 7 fluctuates quite a bit over each year. 8 The last federal stream is at HUD, 9 Housing and Urban Development, and those are 10 homeless funds. Several -- many of the domestic 11 violence shelters in the State are eligible for 12 those dollars as they are serving families that 13 are made homeless as a result of violence in 14 their own homes. Those dollars come in at about 15 1.8 million. 16 All of these grant programs are 17 competitive. The funds have not increased over 18 the years while the number of programs competing 19 for these funds has tripled. We -- 20 REPRESENTATIVE KELLY: Tax credits. 21 You know, we love to hate tax credits these 22 days, but your shelters benefit significantly 23 from tax credits, don't they? 24 MS. COBLE: Yes. In about '94 was the 25 law that passed that established tax credits for</p>
<p>1 some goes to the highway patrol, and some goes 2 into direct funds for crime victims in the crime 3 victims compensation program. The rest goes 4 into the grant program, and SSBF is its 5 shorthand. It's about 5 million dollars a year. 6 Moving over to what comes from the Fed. 7 Under the US Department of Health and Human 8 Services was the very first federal grant 9 program, the Family Violence Prevention and 10 Services Act. That also flows like the State 11 dollars to the Department of Social Services, 12 and it's been pretty steady for a long time at 13 about 1.6 million. It's bumped up a little bit 14 over time, but there's not been any significant 15 increases in those dollars for quite a long 16 time. 17 The Centers for Disease Control and 18 Prevention is also under that federal 19 designation, that federal department, and their 20 funds come in the Department of Health and 21 Senior Services in Missouri. They have two 22 grant programs; one that's part of a larger 23 block grant that can be used for sexual assault 24 services. That is just a little bit over a 25 hundred thousand dollars for the entire state.</p>	<p>Page 15</p> <p>1 domestic violence shelters. We have a statutory 2 cap at 2 million dollars, and I would submit 3 there's quite a difference between the dollar 4 amount and the value at the community level that 5 those benevolence tax credits bring in. 6 REPRESENTATIVE KELLY: Now, you don't 7 show the tax credit money on your chart. Does 8 the tax -- if I were to make a tax credit 9 contribution does the money flow directly to the 10 individual shelter in my community? 11 MS. COBLE: Yes, sir, it does. The 12 Department of Social Services administers that. 13 You have to be certified and in compliance with 14 the statutes, and then it goes directly to that 15 program. 16 REPRESENTATIVE KELLY: All right. And 17 the State government doesn't play any kind of a 18 -- or does the State government play some role 19 that I don't know about in the decisions about 20 how to use that money or is that decision -- 21 MS. COBLE: No, sir. 22 REPRESENTATIVE KELLY: -- pretty much 23 left in the hands of the individual shelter? 24 MS. COBLE: It's left in the hands of 25 the locals providing the shelter services. They</p>

<p style="text-align: right;">Page 18</p> <p>1 provide documentation to the donor for their tax 2 credits and then they record those funds in 3 their donations.</p> <p>4 REPRESENTATIVE KELLY: Do you know how 5 much the tool was used last year?</p> <p>6 MS. COBLE: Last year and the previous 7 year have been some of the lowest years on 8 record because of economics. And I believe we 9 were only using about half of those tax credits 10 last year, about a million, but those numbers 11 are already increasing as the community 12 continues to get onboard. And those are really 13 crucial dollars.</p> <p>14 ATTORNEY GENERAL KOSTER: If I could 15 follow up, because I apologize, my attention got 16 diverted for a second. What is the tax program -- tax credit program that benefits this issue and what is the name of it?</p> <p>19 MS. COBLE: It's the Domestic Violence 20 Shelter Tax Credit. It's a 50-percent tax 21 credit on donations of \$100 or more to eligible 22 domestic violence shelters that meet the 23 requirements in state statute for their 24 operations and establishment. And it --</p> <p>25 ATTORNEY GENERAL KOSTER: Is it capped</p>	<p style="text-align: right;">Page 20</p> <p>1 ATTORNEY GENERAL KOSTER: \$145,000. 2 But now resources directed to the issue are 3 around 4.7 million and we're about 15 years down 4 the road from the horse racing money. 5 MS. COBLE: Uh-huh. 6 ATTORNEY GENERAL KOSTER: But all of 7 the margin there, 4.5 million dollars you 8 mentioned, was federal. Where is -- 9 MS. COBLE: Those are the state 10 dollars. 11 ATTORNEY GENERAL KOSTER: Well, but 12 they all flow from federal sources? 13 MS. COBLE: The one pot of GR money is 14 4.75 million current. If I'm not mis -- 15 ATTORNEY GENERAL KOSTER: So I -- as we 16 went through all the money that came from Health 17 and Human Services, HUD and DOJ, that is -- 18 MS. COBLE: Separate federal grant 19 programs. 20 ATTORNEY GENERAL KOSTER: -- separate 21 from the 4.7? 22 MS. COBLE: Yes, sir. 23 ATTORNEY GENERAL KOSTER: Okay. I 24 misunderstood. Thank you. 25 MS. COBLE: And if I could add. One of</p>
<p style="text-align: right;">Page 19</p> <p>1 or uncapped?</p> <p>2 MS. COBLE: Capped at 2 million. Can't 3 be bought or sold. Other tax credit programs 4 can. This is solely for the eligible entities 5 in each community. And if there are -- the 6 Department of Social Services will reallocate if 7 there are funds that aren't being used in one 8 part of the State and there's a greater need in 9 another. So there's great flexibility.</p> <p>10 ATTORNEY GENERAL KOSTER: And I may be 11 -- I know I'm asking the same question twice, 12 but how much of that has been used in the last 13 couple of years?</p> <p>14 MS. COBLE: We have been about at half 15 for the past couple of years. As most of the 16 charitable tax credits have gone down, ours has 17 done so similarly.</p> <p>18 ATTORNEY GENERAL KOSTER: Could I ask a 19 few other questions or how much farther do you 20 have in your presentation?</p> <p>21 MS. COBLE: I'm ready for questions.</p> <p>22 ATTORNEY GENERAL KOSTER: You mentioned 23 earlier that the horse racing commission had 24 directed about -- did you say about 140K?</p> <p>25 MS. COBLE: 125.</p>	<p style="text-align: right;">Page 21</p> <p>1 the ways that Missouri does a good job of 2 allocating these funds is that the Department of 3 Public Safety dollars pay for your salaries. 4 Those are the biggest expenses of running 5 programs. The Department of Social Services 6 dollars pay for units of service. They pay that 7 additional part of what you need to operate a 8 program. They pay for your hotline. They pay 9 the cost of housing somebody for 24 hours a day 10 room and board. They pay for those other units 11 of services. So the two together really are a 12 nice funding system in terms of the structure 13 and balance that they provide for the 14 non-profit.</p> <p>15 ATTORNEY GENERAL KOSTER: So we've got 16 4.7 in GR.</p> <p>17 MS. COBLE: Yes, sir.</p> <p>18 ATTORNEY GENERAL KOSTER: And how much 19 on top of that in fed?</p> <p>20 MS. COBLE: Probably in the 21 neighborhood of about 20 million all told all of 22 which fluctuates year to year and is competitive 23 and not a guarantee of stable funding.</p> <p>24 ATTORNEY GENERAL KOSTER: So that's a 25 giant step forward from the horse racing money?</p>

6 (Pages 18 to 21)

<p>1 MS. COBLE: Yes, it is. It is.</p> <p>2 ATTORNEY GENERAL KOSTER: One of the 3 numbers that came out in our last meeting that 4 was so interesting was the notion that 25,000 5 people or so had requested overnight help from 6 domestic violence shelters and 15,000 of those 7 25,000 were turned away because lack of 8 resources. And the poverty numbers just came 9 out, I don't know, over the weekend or a week 10 ago, whenever that was, and we're seeing 11 increased utilization from Medicaid here in the 12 State and other things. Do you have -- with us 13 being three-quarters through the calendar year 14 do you have any indication as to whether -- 15 where you are on utilization of the shelter 16 resources and increased utilization I guess is 17 the --</p> <p>18 MS. COBLE: Tremendously overcrowded 19 and still turning people away. Programs are 20 packed. The residential programs are seeing the 21 increases continue. We've also done some 22 identification of the percentages because our 23 programs are free to those in need. We serve an 24 over represented percentage of women and 25 children living in poverty. So anywhere from 70</p>	<p>Page 22</p> <p>1 ATTORNEY GENERAL KOSTER: Okay. Other 2 questions? Representative Newman?</p> <p>3 REPRESENTATIVE NEWMAN: Good morning, 4 Colleen. Is there a way that you could just 5 briefly summarize from the last, you know, 6 budget rounds that we went through in the 7 legislature in terms of how that was affected 8 with any of these budget numbers?</p> <p>9 MS. COBLE: Our funds were cut by 50 10 percent. And that 4.75 million, that was the 11 first big budget presentation out of the house 12 committee on the Department of Social Services, 13 the Appropriations Sub-Committee, they cut it by 14 50 percent. And through incredible advocacy and 15 contact with our legislators advocates around 16 the State rallied and the money was put back in 17 by Budget Chairman Icet and it stayed in. And I 18 do have to credit Senator Schaefer for his help 19 in that, that there were no cuts when the budget 20 finally passed.</p> <p>21 However, with the requirements on the 22 Governor's office to address a shortfall even 23 beyond what was in the State budget, the current 24 domestic violence grants, the State general 25 revenue dollars, were cut by 15 percent through</p>
<p>1 to 85 percent of those coming in for services 2 have no place else to go and are living well 3 below the federal poverty levels.</p> <p>4 ATTORNEY GENERAL KOSTER: On shelter 5 utilization are you the -- is your entity, 6 MCADV, the entity that accumulates those numbers 7 --</p> <p>8 MS. COBLE: Yes.</p> <p>9 ATTORNEY GENERAL KOSTER: -- from 10 around the State?</p> <p>11 MS. COBLE: Yes. The State contracts 12 with us.</p> <p>13 ATTORNEY GENERAL KOSTER: And do you do 14 that on a quarterly basis or on a --</p> <p>15 MS. COBLE: We receive --</p> <p>16 ATTORNEY GENERAL KOSTER: -- annual 17 basis?</p> <p>18 MS. COBLE: -- reports on a monthly 19 basis and then compile them annually. So we can 20 give you some touchstones in time.</p> <p>21 ATTORNEY GENERAL KOSTER: So when we 22 put together a report, say, in a month from now 23 or month and a half --</p> <p>24 MS. COBLE: We could tell you what we 25 have to date, yes, sir.</p>	<p>Page 23</p> <p>1 a governor's withhold. And what that translates 2 into is a program that was getting about \$56,000 3 for an entire year of 24-hour a day services is 4 now getting about 40. So we made it through 5 that budget process with great support, again, 6 in a bipartisan way, but when it comes down to 7 it we had a 15-percent withhold. And I have to 8 commend those who worked within the Department 9 of Social Services because they really worked 10 with us on how to do that in a way that had the 11 least dramatic effect.</p> <p>12 ATTORNEY GENERAL KOSTER: Senator 13 Schaefer?</p> <p>14 SENATOR SCHAEFER: Thanks. I do want 15 to go back to the tax credit issue. Have you 16 got any data that shows how the tax credits -- 17 how they were leveraged? I mean, because 18 usually you can leverage those dollars into 19 additional dollars that you otherwise wouldn't 20 get, and I'll give you an example.</p> <p>21 Recently, for example, the food bank in 22 town, they've received a tax credit every year 23 since that tax credit has been available for the 24 last 12, 15 years, and DED, just a few months 25 ago, decided that they were no longer going to</p>

<p>1 issue that tax credit. And Chris and I worked      2 very hard on that. One -- the reason we were      3 able to, I think, turn that decision around is      4 the food bank had some really compelling data on      5 roughly \$100,000 tax credits, how they could      6 leverage that to 1.3, 1.5 million dollars worth      7 of food.</p> <p>8 The Governor did put together a tax      9 credit commission that's looking at tax credits      10 and frankly looking at eliminating tax credits      11 right now. And so for my own benefit I would      12 like to know how that money -- not just the      13 amount, but how it was leveraged, and I would      14 really implore you to provide that data to that      15 tax commission because they're looking at all      16 tax credits.</p> <p>17 MS. COBLE: I do intend to speak to      18 them. I can tell you there are several program      19 representatives and directors in the audience      20 today. All of these federal grants, the      21 majority of them require matching money.</p> <p>22 SENATOR SCHAEFER: Right.</p> <p>23 MS. COBLE: It's the kind of thing when      24 those tax credits come in and then they've got      25 the cash match that they can use to get all of</p>	<p>Page 26</p> <p>1 REPRESENTATIVE KELLY: Let me follow-up      2 on that. Are you suggesting that there is a      3 federal safe harbor which if enacted by Missouri      4 would alleviate your filing requirements with      5 the Feds?</p> <p>6 MS. COBLE: No, sir. What I'm      7 suggesting is that it would be beneficial to      8 mirror what the federal government allows the      9 State to do with the grant programs of federal      10 dollars.</p> <p>11 REPRESENTATIVE KELLY: I get that, but      12 how does that help you with your tax reporting?</p> <p>13 MS. COBLE: We are tax exempt, but we      14 are required to file incredible numbers of tax      15 reports.</p> <p>16 REPRESENTATIVE KELLY: And you would      17 not have to do that if --</p> <p>18 MS. COBLE: Nobody pays for us to do      19 that. How's that? No one pays. We can't use      20 our grant monies for administrative purposes but      21 yet we have to compile timesheets on a 15-minute      22 basis for all of our employees.</p> <p>23 REPRESENTATIVE KELLY: Right.</p> <p>24 MS. COBLE: All of their records. All      25 of the reports from our board of directors. All</p>
<p>1 these federal dollars that otherwise they      2 couldn't get. So it's an essential piece of      3 that funding mechanism.</p> <p>4 Some of these programs have got upwards      5 of 25 to 30 different funding streams to keep      6 track of, which if I could -- my one ask for      7 this as time runs out is just to note that the      8 federal government allows the State of Missouri      9 to take a 15-percent administrative cut off of      10 all of these funds. Yet a not-for-profit that      11 employs four staff members has more requirements      12 from the IRS, reporting requirements, than      13 government does. We fall under the same      14 requirements of the IRS in reporting that all of      15 the big businesses fall under.</p> <p>16 The mishaps at Enron and other      17 corporations resulted in significant changes in      18 tax laws and reporting for all corporations. We      19 need to have a system in Missouri where there      20 can be a percentage allowed in these grant      21 programs for the administration of programs that      22 are subject to great penalties and loss of      23 not-for-profit status if they don't do that.</p> <p>24 And that's a big need for right now.</p> <p>25 ATTORNEY GENERAL KOSTER: Chris?</p>	<p>Page 27</p> <p>1 of the 990 reports that have been hugely      2 expanded over the past two years.</p> <p>3 REPRESENTATIVE KELLY: I think it would      4 be a good idea to flush that out a little more.</p> <p>5 And here's why. My colleagues in the      6 legislature are generally loathe or at least      7 skeptical about providing administrative money.</p> <p>8 MS. COBLE: True.</p> <p>9 REPRESENTATIVE KELLY: But if they saw      10 how providing the administrative money would      11 mean less fooling around with the IRS, they      12 don't like the IRS even more than they don't      13 like administrative money, and they would be      14 inclined to go for something like that, I think      15 anyway, or at least an allowance of a      16 percentage. Thank you.</p> <p>17 ATTORNEY GENERAL KOSTER: Any other      18 questions? Thank you very much, Colleen.</p> <p>19 Let's see. I think now we would like      20 to welcome Dan Knight who is prosecuting      21 attorney of Boone County to come and talk with      22 us about prosecution challenges in domestic      23 violence cases.</p> <p>24 I'd also like to welcome Representative      25 Stephen Webber. Welcome, sir. He represents</p>

8 (Pages 26 to 29)

<p>1 this area as well.</p> <p>2 Dan, good morning.</p> <p>3 TESTIMONY</p> <p>4 BY MR. KNIGHT:</p> <p>5 Good morning. Thank you everybody for 6 letting me come speak to you today. And most 7 importantly I'd like to thank Attorney General 8 Koster for convening this task force which is, 9 of course, an extremely serious issue that we're 10 dealing with, and I hope that some of my input 11 will be worthwhile to this panel.</p> <p>12 Obviously, law enforcement has its 13 hands full across the country, throughout 14 Missouri and right here in Boone County dealing 15 with these individuals who victimize the weak 16 and the defenseless and the vulnerable. A lot 17 of times we're talking about girlfriends, we're 18 talking about wives, ex-wives, but a lot of 19 times the thing that makes these cases just so 20 heartbreaking is that we're talking about 21 children who are victims in one way or another.</p> <p>22 It's my strong belief that these 23 offenders must be held accountable for their 24 actions for a number of different reasons. 25 First of all, though, to separate those</p>	<p>Page 30</p>	<p>1 issue of lack of cooperation from victims. You 2 know, we need to have victims come into court 3 and testify after these things happen to them. 4 And, you know, it all stems back -- I know that 5 you all understand this. But this stems back to 6 the Sixth Amendment to the United States 7 Constitution.</p> <p>8 Defendants have a right to confront 9 witnesses against them. Witnesses would be 10 victims in this case. So generally speaking, 11 generally speaking, a victim is going to have to 12 come into court and testify against the person 13 who has committed this crime. And then the 14 mechanism to -- for -- to effectuate this right 15 of confrontation is cross-examination. And 16 generally speaking, defendants in these cases 17 are going to have attorneys, and they will be 18 able to cross-examine these victims in court. 19 So these victims need to testify.</p> <p>20 Now, Bob McCulloch, the prosecutor for 21 St. Louis, has made suggestions about police 22 reports and improvements in police reports, I 23 guess, and training that can be done. Sometimes 24 excited utterances can be used, for example, in 25 lieu of victim testimony, but the great majority</p>	<p>Page 32</p>
<p>1 individuals from the people that they abuse, at 2 least for a period of time. Sometimes it's very 3 important to do that, but also these people are 4 a threat to the general public, of course. But 5 deterrence is important so it's important for 6 these people to be held accountable so that in 7 the future this same offender might think twice 8 before committing this type of offense, and then 9 also it's important always to send a message to 10 the community that we just will not tolerate 11 this type of conduct.</p> <p>12 These cases are serious, like I said. 13 They receive a very high priority in my office. 14 Jason Lamb has provided a letter to Attorney 15 General Koster. I think it was dated late July 16 of this year. I'm sure you all have had an 17 opportunity to look at that. I agree with those 18 suggestions. I support those suggestions that 19 he's made.</p> <p>20 However, I'm going to focus my comments 21 today specifically on this issue of victim 22 cooperation. Without any question in these 23 cases, without any question, the largest problem 24 prosecutors and law enforcement deal with in 25 holding these offenders accountable is this</p>	<p>Page 31</p>	<p>1 of these cases require victims to actually come 2 into the courtroom and to testify.</p> <p>3 You know, that's a common misconception 4 also among victims that we deal with on a daily 5 basis. They think, well, you know what? I 6 already told the police what happened, and that 7 should be in a police report. Why can't that 8 police report just be used in lieu of my 9 testimony? No confrontation there. Sixth 10 Amendment. And so we have to explain that to 11 them. And I -- and like I said, I think the 12 single largest reason, the single largest reason 13 that we have this problem of lack of cooperation 14 is due to victim manipulation without any doubt.</p> <p>15 I believe that the laws in the State of 16 Missouri inadequately address this issue of 17 victim manipulation, and I'll get to that in a 18 little bit. But first of all, I'd like to talk 19 to you about the nuts and bolts of prosecution. 20 And I'm sure you've probably heard this before, 21 but I think it's worth repeating. When offenses 22 -- when these offenses are committed it's up to 23 law enforcement, of course, to conduct that 24 initial investigation. And then when law 25 enforcement believes there's enough evidence to</p>	<p>Page 33</p>

<p>1 prosecute, the case will be sent over to our      2 office, and we will evaluate the case,      3 investigate it as much as we can, but an      4 important component to the investigation is      5 actually contacting the victim in the case;      6 finding out what the wishes of the victim are.      7 You know, these victims must be treated      8 with compassion and dignity and with respect.      9 That's very important. And their wishes must be      10 factored into whatever we do in these cases.      11 It's important -- and, you know, in these cases,      12 of course, in a lot of them victims have just      13 been traumatized. Their worlds have been turned      14 upside down, and they don't know where to turn.      15 So it's important for prosecutors to explain to      16 victims where services might be available.      17 Luckily here in Boone County we have      18 wonderful agencies that provide services to      19 victims. Barb Hodges from True North, they will      20 provide services to the best of their ability      21 with regard to maybe shelter -- immediate needs      22 like shelter or food, even counseling, things      23 like that. It's important for prosecutors to      24 steer victims in the right direction, and it's      25 important for those agencies such as True North,</p>	<p>Page 34</p> <p>1 a right the defendants have here in Missouri      2 that's not afforded to a lot of defendants in a      3 lot of other states. It makes things a little      4 bit more difficult as far as prosecution is      5 concerned.</p> <p>6 Also on felony cases in a lot of      7 counties in Missouri there is no grand jury. So      8 there will be a preliminary hearing. The victim      9 must come in to testify. They're going to be      10 subject to cross-examination right then and      11 there; right then and there in open court. And      12 we'll have victims that will fall by the wayside      13 in other counties because of that. You know,      14 this -- the experience is just too much for      15 them, and sometimes understandably so.</p> <p>16 You know, these offenders have a large      17 advantage over law enforcement due to the      18 proximity that they have to victims in these      19 cases. They know what makes victims tick. They      20 can push their buttons sometimes, and so they      21 can impact certainly whether or not a victim is      22 going to hang in there. And because these cases      23 are so difficult massive resources are required      24 a lot of times from law enforcement to      25 effectively prosecute them.</p>
<p>1 which was formerly The Shelter, or the Rainbow      2 House, those types of agencies to be adequately      3 funded.</p> <p>4 It's important for prosecutors to      5 explain to victims what they can expect from the      6 criminal justice system. You know, our hope is      7 that victims will hang in there, and in many      8 cases, you know, over time victims don't for one      9 reason or another. Of course, I think victim      10 manipulation is our biggest issue there. But      11 explaining to victims what can happen. Here's      12 what can happen to a victim in these cases.</p> <p>13 You know, typically in all domestic      14 cases a defense attorney or a defendant is going      15 to have a right to take a deposition in Missouri      16 of a victim. I believe last I heard Missouri is      17 one of only, I think, 10 states or so, it might      18 be give or take a couple, 10 states or so that      19 allows for defendants through their attorneys to      20 take pre-trial discovery depositions of victims.      21 And let me tell you that's no small deal because      22 those depositions can go on and on and on. They      23 can take hours. And after that, after those      24 withering questions, a lot of times victims      25 decide they no longer want to assist. So that's</p>	<p>Page 35</p> <p>1 Let me tell you a little bit about my      2 office, and I'm proud of this program that we      3 have there called the Domestic Violence      4 Enforcement Unit within our office. We have 3      5 prosecutors out of 14 that pretty much handle      6 exclusively cases of this nature. I have two      7 victim advocates, and then I also have an      8 investigator. So I have 6 people out of 45      9 full-time employees who work on these types of      10 cases.</p> <p>11 You know, our budgets are shrinking.      12 My budget has shrunk every year since I've taken      13 over which was January 1st of 2007, but      14 fortunately we are able to secure grants and      15 about 70 percent of these six positions that we      16 have are funded really through the federal      17 government money that's coming into the      18 Department of Public Safety and being funneled      19 over to our office. So we're very grateful for      20 that. Then we are part -- this DOVE unit that      21 we have is part of a bigger team, and that is      22 there is actually a countywide Domestic Violence      23 Enforcement unit, and this is a combination of a      24 number of different law enforcement agencies.      25 We have a couple of different detectives from</p>

10 (Pages 34 to 37)

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1 the Columbia Police Department. Bob Dochler is  
 2 here. He's going to speak to you a little bit  
 3 later. He's a wonderful detective by the way.  
 4 We have a detective from the Boone County  
 5 Sheriff's Department, the shelter -- True North,  
 6 they play a role in this. We also have a person  
 7 from the MEND program, and I think that Judge  
 8 Daniels will explain to you what they do a  
 9 little bit later.

10 But, you know, the thing that is so  
 11 wonderful about this countywide Domestic  
 12 Violence Enforcement unit that we have is that  
 13 we are able to share information. We have  
 14 dedicated individuals that handle these type of  
 15 cases almost exclusively so we know the  
 16 offenders. We know people who are victims in  
 17 these cases, and we can keep track of that. We  
 18 can brainstorm. We can communicate. And I  
 19 think a great idea has emerged that I want to  
 20 talk to you a little bit later to deal with this  
 21 problem that we have of victim manipulation.  
 22 And I'm not going to take credit for it. It's  
 23 come through the Boone County DOVE program.

24 We also have a domestic violence docket  
 25 in Boone County, and I don't think that all

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1 up. Here's what happens, and I'm sure you  
 2 all know this. In a large majority of these  
 3 cases -- the majority of the domestic violence  
 4 cases that we have are misdemeanors, but in a  
 5 large majority of these cases someone is  
 6 arrested and they're taken to our jail. And  
 7 this is going to be typical, I think, of other  
 8 counties in Missouri. They're taken to our jail  
 9 and then before the prosecution is even involved  
 10 in the case defendants are given an opportunity  
 11 to bond out.

12 In Boone County the scheduled bonds on  
 13 these domestic violence cases; assault --  
 14 domestic assault in the Third Degree, Class A  
 15 Misdemeanor, is going to be \$1,000. So the  
 16 majority of these defendants will actually bond  
 17 out. On our bonding papers which is a contract  
 18 with the Court that the defendants must sign off  
 19 on, they will -- there will be a condition to  
 20 have no contact with the victim in a case. And  
 21 then typically the bond will be returnable in  
 22 Boone County maybe a week later.

23 Here's the problem that we run into.  
 24 Defendant is arrested. Law enforcement says  
 25 well, if he bonds out he's going to be -- the

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1 counties at all have that. As I said, Judge  
 2 Daniels is the judge there. She does a  
 3 wonderful job, and I -- one thing that I like so  
 4 much about this, and that's the domestic  
 5 violence docket, is that we can hold offenders  
 6 accountable more quickly. Cases don't seem to  
 7 get continued or pushed off as often. Judge  
 8 Daniels will hold the party's feet to the fire,  
 9 and we will have to get a case resolved one way  
 10 or another pretty quickly. And that is  
 11 important because victims in these cases, like I  
 12 said, over time can fall by the wayside.

13 Here's what I see as a major  
 14 improvement that could be made to the criminal  
 15 justice system in the State of Missouri that  
 16 might dissuade defendants from engaging in this  
 17 victim manipulation and would then probably, I  
 18 think, certainly result in more victims staying  
 19 cooperative in cases.

20 I think that we need to have a new law  
 21 making it a criminal offense to violate a  
 22 predisposition, I'll call it, predisposition  
 23 no-contact order. We need to have a new law  
 24 that makes that an actual crime. And I'll talk  
 25 about a couple of different ways that this comes

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1 condition is going to be no contact with you.  
 2 And then within hours of the offense being  
 3 committed the defendants may be right back at  
 4 the residence where the crime occurred, or the  
 5 defendant one way or another is contacting his  
 6 victim, and the victim is saying hold on a  
 7 second. I thought that this defendant was  
 8 ordered not to have contact with me. I'm going  
 9 to call the police.

10 So the victim will call the police, and  
 11 the police will say well, our hands are tied  
 12 here because there is no law that prohibits  
 13 this. It's basically just a contract. Now,  
 14 what I'll do for you is I will submit -- I'll  
 15 take a report, and I'll submit this report over  
 16 to the prosecutor, and the prosecutor can then  
 17 file a motion to revoke that bond. Judge Kelly  
 18 was an Associate Circuit Court judge, I think,  
 19 for seven years in Boone County. You know the  
 20 process here.

21 But what will happen then is the  
 22 prosecutor -- who knows. This might occur on a  
 23 Saturday. We don't have court on Saturdays and  
 24 Sundays. So the very quickest we'd be able to  
 25 get this on might be a Monday, but don't hold

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1 your breath on that. That probably isn't going  
 2 to happen. It probably is going to take maybe a  
 3 week before we can take any action, before we  
 4 can get into court with notice being provided to  
 5 the defendant and have this bond revoked in a  
 6 particular case.

7 Well, the defendant very well might go  
 8 back to jail, bond again, and then the whole  
 9 process starts all over. I think that what  
 10 would be tremendous would be a law that would  
 11 actually prohibit this. And I think that we  
 12 could have language in the bonding papers  
 13 themselves, in the bond form, that say if you  
 14 contact the victim in any way, you will be in  
 15 violation of this statute which has punishment  
 16 up to maybe one year in jail. I propose at  
 17 least a Class A Misdemeanor for this, but that's  
 18 something that we can worry about a little bit  
 19 later on.

20 ATTORNEY GENERAL KOSTER: I'd like to  
 21 ask Representative Kelly his thinking on that.  
 22 It sounds like what Dan is proposing is  
 23 essentially a De facto, an order of protection  
 24 in every case, but if it's a condition of the  
 25 bond and it's a crime to violate the bond, it's

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1 the conditions of release virtually immediately.  
 2 MR. KNIGHT: Well, not in all counties,  
 3 and it's certainly not been my experience in  
 4 Boone County.

5 REPRESENTATIVE KELLY: The judge won't  
 6 give you the warrant?

7 MR. KNIGHT: We would have to file a  
 8 motion -- sometimes that could potentially be  
 9 the case, but generally speaking we would have  
 10 to file a motion to have the bond revoked.

11 REPRESENTATIVE KELLY: Well, but it  
 12 seems also in the vast majority of these cases  
 13 that an order of protection is issued virtually  
 14 simultaneously. Lots -- I mean, I saw many --  
 15 I'm sure they don't in every case, but I saw  
 16 many of them.

17 MR. KNIGHT: That's a tool. In some  
 18 cases orders of protection will be sufficient.  
 19 In some cases. But I want to go through --

20 REPRESENTATIVE KELLY: I agree that  
 21 they're not in many cases.

22 MR. KNIGHT: Yeah. I want to go  
 23 through later on with this panel why I think  
 24 they are insufficient in a lot of cases. Okay?

25 ATTORNEY GENERAL KOSTER: Over in the

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1 a state order of protection by a different name.  
 2 REPRESENTATIVE KELLY: I am quizzical  
 3 because dozens of times what happened is exactly  
 4 what you say. A guy would violate. Columbia  
 5 City policeman would show up -- or a county  
 6 deputy would show up at my house asking me to  
 7 sign a warrant if I was the judge on call, and  
 8 they'd go after him right then.

9 MR. KNIGHT: For what? Victim  
 10 tampering? What would the crime be?

11 REPRESENTATIVE KELLY: No. For  
 12 violation of the conditions.

13 MR. KNIGHT: What would the crime be --

14 REPRESENTATIVE KELLY: Or for violation  
 15 of the order of protection. See very often --

16 MR. KNIGHT: I'm going to get to that  
 17 because we don't have -- in these cases a lot of  
 18 times we're not going to have orders of  
 19 protection. And I also think that's an  
 20 inadequate tool as far as these no-contact  
 21 provisions are concerned. And I'll get into  
 22 that in a little bit.

23 REPRESENTATIVE KELLY: I'm not sure I  
 24 disagree with you on the bottom line, but it  
 25 seems to me that you could pursue a violation of

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1 17th Circuit in Cass County I don't think  
 2 sheriff's deputies or police officers sort of  
 3 think about pulling somebody in for a violation  
 4 of a judicial bond unless the prosecutor moves  
 5 for it. I don't know that they see it as the  
 6 same kind of independent crime as something that  
 7 is -- that they derive their power from the  
 8 statute.

9 MR. KNIGHT: You know, I'm kind of  
 10 trying to figure out exactly how that would  
 11 happen anyway. Because we have the offender  
 12 back at the house. The police officer needs to  
 13 move quickly. I propose the police officer be  
 14 able to move quickly and go over there and  
 15 arrest for a new crime rather than -- you know,  
 16 logically it's pretty difficult on-call; get  
 17 ahold of the prosecutor then get ahold of the  
 18 judge --

19 REPRESENTATIVE KELLY: Sure. I agree.  
 20 MR. KNIGHT: -- and then get that order  
 21 done. So I think that's --

22 REPRESENTATIVE KELLY: I agree. That's  
 23 why I say I don't disagree with you on the final  
 24 result here. But you agree that if you had the  
 25 order of protection, him showing up at the house

12 (Pages 42 to 45)

<p>1 is a criminal violation of the order of 2 protection.</p> <p>3 MR. KNIGHT: Absolutely. Yeah, I do. 4 But I think that there are certainly some 5 shortcomings with orders of protection when 6 we're dealing about no-contact provisions, and 7 I'm going to go through that in a little bit.</p> <p>8 REPRESENTATIVE KELLY: And he doesn't 9 need any judicial sanction to enforce the 10 violation of the order of protection because 11 that is a new --</p> <p>12 MR. KNIGHT: Right. That would be a 13 new law.</p> <p>14 REPRESENTATIVE KELLY: Right.</p> <p>15 MR. KNIGHT: Sure. So then I think 16 that this information should actually be 17 contained in the bonding papers. And I believe 18 Lisa Manson who works with Katherine Vannier, 19 she's done a lot of research on this. And this 20 morning when I came in there was maybe a 50-page 21 outline of what other states do in these types 22 of situations and how they have criminalized 23 this type of conduct. I haven't had a chance to 24 look through all that, but when I was browsing 25 over that this morning I did see that in some</p>	<p>Page 46</p> <p>1 on a victim for not doing this; for not 2 testifying. But a lot of times the intent is 3 not overtly stated. Because, you know, as 4 you're sitting here right now you might think to 5 yourself well, that sounds like victim tampering 6 to me. You know, and we've already got a 7 statute on victim tampering.</p> <p>8 Victim tampering under 575.270, 9 Subsection 2. I'd like to read this, and I'm 10 not reading the whole statute. I'm just reading 11 the relevant part that we would deal with as 12 prosecutors and judges in this situation.</p> <p>13 "A person commits the crime of victim 14 tampering if, with the purpose to do so, he 15 prevents or dissuades or attempts to prevent or 16 dissuade any person who has been a victim of any 17 crime from assisting in the prosecution 18 thereof."</p> <p>19 First of all, we have to show that 20 there is this purpose to dissuade. When an 21 offender is calling from jail and saying hi, 22 sweetheart, I can't wait for the -- I can't wait 23 because I've got a great idea. In a month I 24 think that you and I should go to Los Angeles on 25 a vacation or something like that. Well, how do</p>
<p>1 states it looks like there is that actual 2 provision in the bonding paper.</p> <p>3 Okay. So that covers the situation 4 where someone has -- I think covers the 5 situation where someone has bonded out and has 6 had contact with the victim. But, you know, a 7 lot of times these offenders they will also be 8 incarcerated and have contact with victims. And 9 so what I think should happen in those 10 circumstances is a lot of times, like I said -- 11 well, when they're in custody we're going to 12 have a much quicker arraignment. It's going to 13 be usually a couple three days maybe.</p> <p>14 And then I'd like for -- in Missouri 15 for courts to be able to make an order to 16 defendant; you are not to have contact with this 17 victim. And maybe even cite the statute, maybe 18 even provide a copy of the statute. And if the 19 defendant does, then once again we're talking 20 about another criminal offense. Because a lot 21 of times we'll have these defendants, they'll be 22 in jail, and they contact -- they contact 23 victims, and it's going to be maybe some type of 24 a threat or it could be potentially some type of 25 an idea where a defendant might confer a benefit</p>	<p>Page 47</p> <p>1 we prove that the purpose is to prevent or 2 dissuade that victim from assisting the 3 prosecution? It's very difficult to do. Or if 4 maybe an offender would say something like 5 honey, you know how much -- how angry I get when 6 you disobey my wishes. Well, how can we prove 7 that the purpose is to dissuade or prevent 8 someone from assisting?</p> <p>9 So the victim tampering statute is not 10 adequate. Now, problems with relying on 11 protection unfortunately --</p> <p>12 REPRESENTATIVE KELLY: Couldn't you -- 13 instead of making a new statute could you just 14 amend victim tampering to say to include contact 15 in violation of a -- and that might be cleaner 16 and shorter.</p> <p>17 MR. KNIGHT: Absolutely. Yeah.</p> <p>18 REPRESENTATIVE KELLY: So if you don't 19 have an intent the contact itself amounts to 20 victim --</p> <p>21 MR. KNIGHT: Sure. Wherever you all 22 would want to put this --</p> <p>23 REPRESENTATIVE KELLY: I'm just 24 thinking out loud here.</p> <p>25 MR. KNIGHT: Certainly. You know, it</p>

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1 might fit right in there. It might fit in this  
 2 575 section. It certainly could.  
 3 REPRESENTATIVE KELLY: Is it a Class A?  
 4 MR. KNIGHT: Victim tampering, yes,  
 5 would -- yeah. That would be a Class A, but in  
 6 some cases felonies would be --  
 7 MR. LAMB: If the underlying crime is a  
 8 misdemeanor, it's a Class A. If the underlying  
 9 crime is a felony then it's a Class C felony.  
 10 REPRESENTATIVE KELLY: It is? Okay.  
 11 MR. KNIGHT: In a lot of these cases,  
 12 though -- and I'm certain of this. Certainly,  
 13 in other counties that might not have the  
 14 resources to assist victims to get orders of  
 15 protection because, you know, that takes time,  
 16 that takes effort. You know, luckily we have  
 17 Barb Hodges here who -- at True North and who at  
 18 anytime day or night is going to assist in  
 19 obtaining these ex parte orders. But a lot  
 20 cases, for whatever reason, we're not going to  
 21 have an application from petitioner for an order  
 22 of protection, and when we do have it and when  
 23 it is signed off by the judge, tremendous. The  
 24 no-contact order we can enforce through --  
 25 because it's going to be a criminal violation.

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1 house forcibly that there's a mandatory  
 2 three-day cooling off period or whatever it  
 3 would be?  
 4 MR. KNIGHT: I'm sorry. I don't know  
 5 that.  
 6 ATTORNEY GENERAL KOSTER:  
 7 Representative Kelly?  
 8 REPRESENTATIVE KELLY: Here's the  
 9 downside, I think, of a mandatory cooling-off  
 10 period. A mandatory cooling-off period implies,  
 11 oh, this is something that isn't -- just --  
 12 well, everybody will cool down. This will be  
 13 fine. As distinct from that what we have here  
 14 is domestic terrorism and -- I mean, he's just  
 15 spent 2-1/2 hours holding a gun to her head  
 16 while he's drinking a six-pack. Oh, we'll let  
 17 you cool down. Everything will be fine.  
 18 ATTORNEY GENERAL KOSTER: In terms of  
 19 where mandatory state action comes in. I mean,  
 20 if -- that's what the order of protection is.  
 21 If the criminal penalty for violating an order  
 22 of protection is raised, anything that is an  
 23 extended period of separation should be --  
 24 REPRESENTATIVE KELLY: Oh. I see. In  
 25 addition to.

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1 That's great.  
 2 You know, another problem that I have  
 3 with these orders of protection is that we put  
 4 the onus on the victims to apply for these. You  
 5 know, when I'm handling these types of cases and  
 6 we have a victim that doesn't want to assist, I  
 7 always say, you know, we can make it clear when  
 8 you testify in court that this is -- you can --  
 9 that the defendant can be mad at me because I'm  
 10 calling you to testify. I've subpoenaed you.  
 11 This is a court order, and all the pressure is  
 12 on me then, and we'll even establish that you  
 13 don't want to be there and testify. It takes  
 14 the pressure off a little bit, I think, in these  
 15 cases. But with orders of protection, they have  
 16 to be written out by victims placing all the  
 17 pressure directly on them.

18 ATTORNEY GENERAL KOSTER: Dan, do you  
 19 know of any state that has a mandatory  
 20 cooling-off period, like a three-day mandatory  
 21 --

22 MR. KNIGHT: As far as what?

23 ATTORNEY GENERAL KOSTER: Well, in  
 24 terms of when the police have been called to the  
 25 house and the offender has been taken out of the

1 ATTORNEY GENERAL KOSTER: -- should be  
 2 -- should not be state initiated. I mean, if  
 3 there was a STOP cap that was put in by the  
 4 State, and then essentially sort of the  
 5 responsibility would flow back to the victim to  
 6 say okay, I want that three-day piece of state  
 7 action to be extended indefinitely for -- but --  
 8 go ahead. I'm sorry.

9 MR. KNIGHT: Okay. First of all, the  
 10 burden is on the victim to apply for this, but  
 11 also a huge problem in these cases when we're  
 12 talking about issuance of these ex parte orders  
 13 is actually getting service on the defendant.  
 14 Where do you find them? It's very difficult a  
 15 lot of times. Sometimes they can be found in  
 16 court if they appear for arraignment. You know,  
 17 we do that a lot. But, you know, some judges  
 18 don't require people to appear for their  
 19 arraignment. They'll just allow the defense  
 20 attorney to get involved and to waive  
 21 arraignment right there. So the defendant isn't  
 22 available, and so service is a massive problem.  
 23 And then when we're talking about  
 24 attaining full orders in these cases, the victim  
 25 must appear in court. And now, you know, if

<p>1 we're going to -- if we're going to have a      2 contested hearing, the victim a lot of times      3 must testify against the defendant in order to      4 get this full order of protection. A lot of      5 times at that point the defendant is represented      6 by an attorney and here we go again. We've got      7 another opportunity to cross-examine this      8 victim. So we're putting all this burden on the      9 victim in these cases when we're dealing with ex      10 parte and full orders of protection.</p> <p>11 Now, this -- there's this age-old issue      12 that we have of balancing the need for      13 accountability of an offender with balancing the      14 wishes of a victim in a particular case. And,      15 you know, a lot of times for whatever reason      16 victims do not want to assist, but we in some      17 cases are going to go forward if a victim does      18 not want to assist, and we'll take into      19 consideration a number of different factors; the      20 severity of offense, the defendant's criminal      21 history, whether or not there were children      22 involved, whether or not the defendant has made      23 threats to commit future acts of violence which      24 happens a lot against this victim.</p> <p>25 So sometimes we will actually go to</p>	<p>Page 54</p> <p>1 Swingle. He's a tremendous prosecutor down in      2 Cape Girardeau County. I would feel proud to      3 call him my friend. I read that book right      4 after it came out, and in 2007 he wrote in his      5 book that only four states -- only four states      6 in the United States still have this provision      7 on the books that allows a spouse who has been      8 abused in one of these domestic violence      9 situations to invoke the spousal privilege which      10 deprives us of this tool that we have as far as      11 using prior inconsistent statements. I would      12 advocate for that spousal privilege to be done      13 away with.</p> <p>14 You know, I really don't have anything      15 more except if you have any questions, I'd be      16 happy to answer them.</p> <p>17 ATTORNEY GENERAL KOSTER: Colleen?</p> <p>18 MS. COBLE: Ironically one of the No.      19 1 issues from an advocacy community is to      20 maintain spousal privilege, and we talked about      21 this at the St. Louis hearing. Primarily      22 because the way I described it before; the      23 entire authority and power of the State is being      24 brought to bear on this offender and yet they      25 cannot guarantee that he won't re-offend,</p>
<p>1 trial without victim cooperation. And we do      2 have one good law on the books here, it's      3 491.074. This allows the State to call the      4 witness, which a victim will a lot of times      5 recant, and then under this statute we can call      6 a police officer typically, or maybe another      7 witness, to testify about statements that the      8 victim gave that would be prior inconsistent      9 statements, and we can use those statements as      10 substantive evidence.</p> <p>11 That process works. It works in some      12 cases. I'm not saying we do it in all these      13 cases, but it works in some cases. It doesn't      14 work when the victim happens to be married to      15 the defendant. Because in that situation the      16 victim can get up on the stand and invoke the      17 spousal privilege and then there is no testimony      18 at all. There are no inconsistent statements to      19 use.</p> <p>20 I agree 100 percent with Jason Lamb's      21 No. 1 suggestion in his letter to you,      22 Mr. Koster, and that is that the spousal      23 privilege in the State of Missouri must be done      24 away with. You know, there's a great book,      25 Scoundrels to the Hoosegow, written by Morley</p>	<p>Page 55</p> <p>1 threaten, have family members involved to      2 threaten, friends. The system isn't able to      3 protect women and they know it better than      4 anybody else. So doing away with spousal      5 privilege -- I doubt in your office because of      6 your commitment and the work of your assistant      7 prosecutors and staff that there would be a time      8 when a women would be threatened with jail or      9 put in a very dangerous situation because she's      10 being forced to testify, but I can't guarantee      11 that's not going to happen in communities around      12 the State.</p> <p>13 And spousal privilege is one of the      14 last bits of law that actually protects women      15 from being put in a very dangerous situation      16 when the intent is on prosecuting the case no      17 matter what.</p> <p>18 MR. KNIGHT: Well, I think -- you know,      19 I respect your opinion, of course. You know, I      20 know you had -- over the years you've been      21 involved in a number of these cases, but, you      22 know, I think that once again we're talking      23 about -- you know, these offenders know this.      24 After a while they know, you know what,      25 eventually the State isn't going to be able to</p>

15 (Pages 54 to 57)

<p style="text-align: right;">Page 58</p> <p>1 do anything. I can go ahead and punch my wife.      2 The State isn't going to be able to do anything      3 because she's going to get up on the stand and      4 she's just going to go ahead and invoke. So      5 they can't use those prior inconsistent      6 statements. And then what happens is we wind up      7 with the victim who's bearing -- all the      8 pressure is placed on her to invoke that      9 privilege. And I don't think that that's fair,      10 you know, in a lot of these circumstances,      11 because we know why they're invoking a lot of      12 times because it has to do with victim      13 manipulation.</p> <p>14 You know what we have happen in these      15 cases?</p> <p>16 MS. COBLE: It's because they're      17 afraid. It's not manipulation when you know for      18 a certainty that a certain act will occur. So      19 it's --</p> <p>20 MR. KNIGHT: Yeah. And that's -- we're      21 never going to be able to guarantee the safety      22 of --</p> <p>23 MS. COBLE: Bingo.</p> <p>24 MR. KNIGHT: -- anyone whether or not      25 --</p>	<p style="text-align: right;">Page 60</p> <p>1 MR. KNIGHT: Sure.      2 ATTORNEY GENERAL KOSTER: This is a      3 devil's advocate question because I'm undecided      4 on this issue. So to play devil's advocate on      5 Dan's side of the issue for a second. If you      6 were on the Senate floor, you had a vote on the      7 Senate floor, given your rationale in favor of      8 not changing the spousal privilege at all, if      9 there was a serious proposal for a let's call it      10 a significant other privilege to extend the same      11 protections that the spousal privilege gives      12 wives to essentially significant others, would      13 you vote to expand --</p> <p>14 MS. COBLE: Yes.</p> <p>15 ATTORNEY GENERAL KOSTER: Given your      16 rationale in favor of the spousal privilege --</p> <p>17 MS. COBLE: Yes.</p> <p>18 ATTORNEY GENERAL KOSTER: -- you would      19 vote to expand spousal privilege to significant      20 others?</p> <p>21 MS. COBLE: Because in debates on this      22 issue it is often cast as a privilege granted to      23 married women that unmarried women do not have.      24 And in those debates when the argument is being      25 made to do away with spousal privilege it is</p>
<p style="text-align: right;">Page 59</p> <p>1 MS. COBLE: And that's the issue.      2 MR. KNIGHT: -- whether or not you're      3 married or not for any period of time, but the      4 thing is we have to hold offenders accountable      5 --</p> <p>6 MS. COBLE: That has to be said again.</p> <p>7 MR. KNIGHT: -- certainly for that case      8 and --</p> <p>9 MS. COBLE: That has to be said out      10 loud. You can never --</p> <p>11 MS. KNIGHT: -- and to -- and to deter      12 future criminal conduct. You know what we have      13 happen in these cases a lot of times? We'll      14 have the atomic bomb get dropped on us by      15 defense attorneys. Hey you know what? At the      16 time of the assault defendant was not married to      17 victim, and then low and behold one week before      18 trial we're presented with a marriage      19 certificate. Now, if we're going to get -- if      20 we're -- if it's going to be public policy to      21 encourage people to get married under those      22 circumstances then I think that that's not      23 really something that we want to have happen.</p> <p>24 ATTORNEY GENERAL KOSTER: Can I ask      25 Colleen a question?</p>	<p style="text-align: right;">Page 61</p> <p>1 recognized that it actually is a legal      2 protection for you.</p> <p>3 MR. KNIGHT: It's a protection for the      4 defendant. It's a protection for the person to      5 go abuse and --</p> <p>6 SENATOR SCHAEFER: The privilege      7 belongs to the testifier, doesn't it? Because      8 the spouse can't waive --</p> <p>9 MR. KNIGHT: Right. Sure. I mean, the      10 victim certainly can get up on the stand and      11 testify. We've had that happen. And really the      12 best case scenario we have -- we don't have to      13 waive anything. We're going to pursue holding      14 the defendant accountable and we have a victim      15 who is willing to assist, and we have that      16 happen in a lot of cases. And that would      17 include a spouse that wants to assist.</p> <p>18 SENATOR SCHAEFER: You know, I think      19 it's interesting because it shows the complexity      20 of a lot of what we're dealing with here. And I      21 recall, I think, back when I was a prosecutor in      22 one of the MOPS conferences I went to in '96 or      23 '97, one of the key speakers was a prosecutor      24 from, I think, Indiana that had been brought      25 out, and this guy's whole MO was, you know, in</p>

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1 these domestic violence cases -- you know, come  
 2 hell or high water, you know, I don't care what  
 3 the victim says. I plow -- you know, I bring  
 4 the cases. You know, who knows how many  
 5 situations this guy made worse. But, you know,  
 6 that was kind of the -- at the time that was the  
 7 theory. How do you develop a mechanism to  
 8 prosecute when you have not just an absentee  
 9 victim or a victim who won't testify but an  
 10 uncooperative victim who recants? And so  
 11 obviously I think that the whole concept of how  
 12 to deal with these cases since the mid-'90s has  
 13 come around back in another way. And, you know,  
 14 you point out something else.

15 MR. KNIGHT: You're right, Senator  
 16 Schaefer. I mean, the way it used to be maybe  
 17 30 or 40 years ago was if a defendant was  
 18 successful in manipulating a victim and the  
 19 victim came in to the prosecutor and said we --  
 20 she, typically the gender is going to be a she,  
 21 didn't want to assist --

22 SENATOR SCHAEFER: The case was gone.

23 MR. KNIGHT: -- the case was gone. And  
 24 then we did go -- I think the pendulum shifted  
 25 almost completely to, okay, we're going to go

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1 with resources because I think that it's  
 2 difficult, you know, a lot of times from a  
 3 resource perspective to get these orders of  
 4 protection.

5 SENATOR SCHAEFER: No. I think that's  
 6 a really good idea because then, as you said,  
 7 you're not ascribing motive. Because if you  
 8 have a murder case and the defendant calls a  
 9 witness and says oh, I just wanted to ask him  
 10 how the weather was. You know, no one believes  
 11 that.

12 MR. KNIGHT: Right.

13 SENATOR SCHAEFER: But the situation  
 14 being as it usually is in a domestic violence  
 15 case, you have to, you know, somehow disprove  
 16 that it was an honorable motive which is a much  
 17 harder position to be in as a prosecutor. And  
 18 so I like that idea. And, you know, I don't  
 19 know if Jason mentioned it before I got here,  
 20 but, you know, we do have a group in place, it's  
 21 been in place throughout the summer and will be  
 22 throughout the fall, to look at revamping the  
 23 entire criminal code in the State of Missouri.  
 24 I'm on that, Senator Joey Justice (phonetic) is  
 25 on that, and Jason has been carrying the

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1 forward no matter what. And now where we are  
 2 is, you know, this is an extremely difficult  
 3 weighing process. You know, this isn't math.  
 4 This isn't science. We're talking about a lot  
 5 of gray areas here.

6 SENATOR SCHAEFER: Right. And the  
 7 difficulty we have as lawmakers too is -- as you  
 8 pointed out, I mean, we've got incredible  
 9 resources in Boone County. You know, probably  
 10 some of the best, if not the best, in the State.  
 11 But we have to pass laws that are applicable to  
 12 all 114 counties, and so the laws that we pass  
 13 have to be able to be carried out by counties  
 14 which are -- you know, have fewer resources, are  
 15 less sophisticated and simply don't have the  
 16 community support, some of the other things  
 17 that, you know, then make it easier to be in law  
 18 enforcement or to be in the prosecutor's office  
 19 on some of these domestic violence issues.

20 MR. KNIGHT: And I'll tell you what. I  
 21 think that if -- the no-contact provision is  
 22 what I initially advocated for here; the big  
 23 push to make it a violation to -- or to make it  
 24 a violation of the criminal laws to have contact  
 25 against a court order. I think that would help

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1 laboring oar on that. So that's the place I  
 2 think to slip some of these things into what  
 3 we're looking at when we come out with a  
 4 recommendation for what the General Assembly  
 5 will do.

6 ATTORNEY GENERAL KOSTER: Colleen, and  
 7 then if it's okay with the panel I'd like to  
 8 take a quick 10-minute break.

9 MS. COBLE: Just to put this in  
 10 context. In order to get the first major  
 11 domestic violence law through, the changes that  
 12 are the basis for what we have in place now in  
 13 1989, the only way it would pass out of the  
 14 House through the judiciary committee was to put  
 15 in a clause that says that good faith attempts  
 16 to reconcile a marriage shall not be deemed  
 17 witness tampering or victim tampering.

18 There is a hole that was purposely put  
 19 in the law because there is still -- there was  
 20 still that belief that these were family matters  
 21 that shouldn't be going through the courts.  
 22 Unfortunately, there is still a community in  
 23 positions of authority in certain communities  
 24 around the State who still hold to that belief.  
 25 So again, I want to express my concerns about

17 (Pages 62 to 65)

<p style="text-align: right;">Page 66</p> <p>1 what I see as the risks and dangers to women      2 from the removal of spousal privilege being that      3 some of your less enlightened colleagues perhaps      4 --</p> <p>5 MR. KNIGHT: Well, and I appreciate      6 that.</p> <p>7 MS. COBLE: -- will take a page out of      8 the Indiana prosecutor's playbook and we won't      9 have the result that we want.</p> <p>10 MR. KNIGHT: And I'll respect your      11 opinion very much, but maybe on that particular      12 issue -- and I thank you very much for your      13 comment there. But on that particular issue I      14 think that we might just have to agree to      15 disagree. And, you know, to tell you the truth      16 I've put it in -- I softened up the terms      17 because I could have quoted from Morley      18 Swingle's book where he considered this to be an      19 embarrassment and everything else to the State      20 of Missouri, and I didn't go that far. But I      21 certainly think that, you know, I'm always going      22 to advocate for the -- for that to be done away      23 with, the spousal privilege, but I respect your      24 opinion.</p> <p>25 ATTORNEY GENERAL KOSTER: If it's okay</p>	<p style="text-align: right;">Page 68</p> <p>1 today and talk in a forum like this which I'm      2 not familiar with, but I realized, take the      3 selfishness aside, that this is a very important      4 and worthwhile topic. Domestic violence victims      5 do not often get the opportunity to speak on      6 their own behalf so I'm happy to be here today.</p> <p>7 I'm a detective with the Columbia      8 Police Department. I've been here for ten years      9 with the department, spent seven years as a      10 patrol officer working the midnight beat. For      11 the last three years I've been assigned to the      12 Domestic Violence Enforcement unit, specifically      13 with the major crimes unit as a detective.</p> <p>14 During my testimony today I would like      15 to share with you basically an overview of what      16 the DOVE unit is. I know Mr. Knight has already      17 touched on that. I'd like to go just a little      18 bit further, explain what the role of a domestic      19 violence detective is, some of the things that      20 we do in our job and our duties. And then as      21 time allows there's four specific areas that I      22 would like to touch on where I think appropriate      23 changes would make law enforcement's response to      24 domestic violence victims better.</p> <p>25 Those four things are; 1, the ability</p>
<p style="text-align: right;">Page 67</p> <p>1 let's take a 10-minute break.</p> <p>2 Dan, thank you very much for a very      3 thorough and well thought out presentation. I      4 appreciate your time this morning. We'll      5 reconvene in seven or eight, ten minutes.</p> <p>6 (Thereupon, the proceedings stood in      7 temporary recess.)</p> <p>8 ATTORNEY GENERAL KOSTER: I would      9 ask if Detective Bob Dochler could come forward      10 from the Columbia Police Department and talk      11 with us about some of the best practices      12 specifically related to the domestic violence      13 enforcement unit, the DOVE unit that prosecutor,      14 Dan Knight, was discussing earlier.</p> <p>15 Bob, welcome. Thank you for taking --      16 thank you for what you do, first of all, and      17 thank you for taking time this morning to talk      18 with us.</p> <p>19 TESTIMONY      20 BY MR. DOCHLER:</p> <p>21 Mr. Koster, and members of the panel,      22 thank you as well for, one, the opportunity to      23 be here and address you today and talk to you      24 and, second, for holding these hearings. Quite      25 honestly, I was scared to death to show up here</p>	<p style="text-align: right;">Page 69</p> <p>1 to hold arrested subjects for a minimum of a      2 24-hour period. No. 2, that law enforcement      3 officers need to have the ability to detain a      4 respondent in an ex parte who is still waiting      5 for the service of the ex parte. No. 3, I'd      6 also like to touch on and address a little      7 further the no-contact bond conditions that our      8 judges are graciously putting on the conditions      9 of their bond but they're not being adhered to      10 by suspects or defendants in our domestic      11 violence cases. And then, fourth, if I have the      12 time, would be that in our community, in our      13 state, third degree domestic assault cases with      14 physical injury are misdemeanors unless there's      15 two prior convictions which make them a felony.      16 I'd like to touch on that and see if there would      17 be any room for increasing those to felonies.</p> <p>18 With that said, I'd go back at kind of      19 an explanation of what the DOVE unit is. The      20 DOVE unit stands for Domestic Violence      21 Enforcement unit. It's history; about 13 years      22 ago my former partner in the DOVE unit, Jeff      23 Westbrook, was instrumental in developing this      24 unit along with representatives of the Boone      25 County Sheriff's Department, probation and</p>

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<p style="text-align: right;">Page 70</p> <p>1 parole, Columbia Police Department, a local area 2 women's shelter. 3 The purpose for this was that local 4 jurisdictions were handling domestic violence in 5 different and often ways that were not 6 consistent with each other. I think their goal 7 was to come together -- to bring together lines 8 of communication and to get on the same page, 9 if you will, to work towards our goal, and that 10 is holding offenders accountable and assisting 11 victims of domestic violence. Along with that 12 is the term coordinated community response. I 13 can't say enough about that.</p> <p>14 Currently, we have one detective from 15 the Boone County Sheriff's Department, two 16 detectives from the Columbia Police Department, 17 myself and Randy Nichols. We have three 18 investigators from Boone -- or assistant 19 prosecutors from the Boone County Court that are 20 assigned specifically to domestic violence, two 21 representatives from probation and parole, two 22 advocates from the women's shelter now called 23 True North, two advocates from the Boone County 24 court system and additional investigators, court 25 liaisons, all part of this program. All right?</p>	<p style="text-align: right;">Page 72</p> <p>1 North Shelter in cooperation with the Columbia 2 Police Department is a domestic violence first 3 responder advocate. This is an effort to have 4 an advocate available. We looked at statistics 5 in our call volume of when was the greatest 6 likelihood for someone after normal business 7 hours to need services, and it's a tough 8 position to fill. Nobody wants to work the 9 hours this young lady is going to work, but she 10 has stepped up, applied for the position, and I 11 think we've got a good person in place now. 12 This advocate is going to respond when 13 an officer finds certain criteria in a domestic 14 violence call. We're talking about first 15 responder blue uniformed officers on the street 16 responding to calls saying these criteria are 17 here. We're going to call out this advocate. 18 She's going to stage in the area, and when it's 19 safe to do so she's going to come in, and we're 20 going to get her in contact with immediate 21 services. I think this is groundbreaking, and I 22 applaud True North for going forward with this 23 and developing this. It's huge. 24 Also new within the past couple of 25 years is a liaison the Court developed to hold</p>
<p>1 We meet on a monthly basis to go over 2 case studies, cases we're currently working on, 3 cases we've previously worked on as well as 4 problems that we are seeing with our unit and 5 ways to improve. Basically, it's a forum for us 6 to bring about these problems, offer solutions 7 and work to do a better job in our community 8 helping victims of domestic violence. 9 Another thing I'd like to give a praise 10 on is our relation with the advocates in our 11 community. We have two advocates working 12 directly with detectives. I have one in our 13 office that we see on a regular basis. She 14 splits her time at our office as well as the 15 sheriff's department. We share our reports with 16 them. We work together in a response to help 17 victims and get them the services that they 18 need. 19 Recently, there's been additional 20 changes. Prosecutor Knight talked about Judge 21 Daniels' domestic violence docket which is new 22 and not everywhere in the State of Missouri. 23 It's a great way to streamline, and I'll let her 24 talk more about that if she chooses. Another 25 thing is the recent development through True</p>	<p style="text-align: right;">Page 71</p> <p>1 -- help hold offenders accountable. We have 2 something called MEND classes in our community 3 which is a batterer intervention group. It's a 4 28-week course mandated by the Court for 5 offenders to attend if they fit the 6 qualifications. There had been problems in the 7 past with accountability; not attending the 8 courses as scheduled, and now there's someone to 9 facilitate that, keep track of it and keep in 10 contact with the Court. I think this is also a 11 great step. 12 Yes, sir? 13 REPRESENTATIVE KELLY: Do you find that 14 that -- you know, I always had trouble with the 15 anger management courses and all like that. 16 None of them ever worked worth a darn. Do you 17 find more success now? 18 MR. DOCHLER: Well, you know, I think 19 especially now with Judge Daniels and her 20 docket, and like Prosecutor Knight said holding 21 their feet to the fire, I think it can only be 22 better. And I think that time is yet to tell. 23 REPRESENTATIVE KELLY: How is that 24 docket different than the docket we used to do? 25 She has both criminal and civil; is that right?</p>

19 (Pages 70 to 73)

<p>1 I just had the orders of protection.</p> <p>2 MR. DOCHLER: Right. She is doing the</p> <p>3 criminal side, from what I understand, to</p> <p>4 streamline that -- streamline that and get</p> <p>5 people before the Courts --</p> <p>6 REPRESENTATIVE KELLY: At the same</p> <p>7 time?</p> <p>8 MR. DOCHLER: At the same time, yes.</p> <p>9 And I think Judge Schneider is doing the</p> <p>10 majority of the protection orders. Does that</p> <p>11 answer your questions?</p> <p>12 REPRESENTATIVE KELLY: Yeah. Thanks.</p> <p>13 MR. DOCHLER: You got me off track.</p> <p>14 SENATOR SCHAEFER: He's good at that.</p> <p>15 MR. DOCHLER: Basically, I wanted to</p> <p>16 demonstrate that we do have an open line of</p> <p>17 communication among all members of our domestic</p> <p>18 violence unit, and I think that is something we</p> <p>19 want to share with the rest of the State.</p> <p>20 Specifically my duties at the police department</p> <p>21 as a follow-up investigator, we were -- Randy</p> <p>22 and I wear many hats. Okay?</p> <p>23 No. 1, is education. We take that</p> <p>24 seriously, and we have been asked to present all</p> <p>25 over the State of Missouri. And this started</p>	<p>Page 74</p> <p>1 are responsible for their follow-up work in</p> <p>2 domestic violence cases, and if their call</p> <p>3 volume is anywhere near that of Boone County</p> <p>4 Sheriff's Department or Columbia Police</p> <p>5 Department, a lot of that work is probably not</p> <p>6 getting done. I think that is a huge area in</p> <p>7 which our agency and the importance we've put on</p> <p>8 it helps, because now 24 to 36 hours after the</p> <p>9 original call detectives such as myself and</p> <p>10 Randy Nichols are getting these cases assigned</p> <p>11 to us for follow up. We do follow-up statements</p> <p>12 from victims, identify holes in the cases to</p> <p>13 make a good solid case for the prosecution.</p> <p>14 We're also collecting that necessary evidence,</p> <p>15 that follow-up evidence which is generally</p> <p>16 photographs which -- or the largest part to show</p> <p>17 what those injuries look like three days later.</p> <p>18 The red mark that the officer saw that night and</p> <p>19 took a photograph looks drastically different</p> <p>20 three days later.</p> <p>21 ATTORNEY GENERAL KOSTER: Can I ask</p> <p>22 Colleen a question?</p> <p>23 MR. DOCHLER: Yes, sir.</p> <p>24 ATTORNEY GENERAL KOSTER: As I -- as</p> <p>25 much as talking about the spousal privilege is</p>
<p>1 with Jeff Westbrook. He was a wonderful</p> <p>2 presenter and educator. We spend a good portion</p> <p>3 of our time traveling to other law enforcement</p> <p>4 agencies throughout the State, not so much to</p> <p>5 tell them that this is the best way to do it but</p> <p>6 to offer them ideas on how we do things in Boone</p> <p>7 County. And if they can take from that</p> <p>8 something useful in their community, so be it,</p> <p>9 and we're happy to do it.</p> <p>10 Another thing that we do is educate on</p> <p>11 a local high school and college level. We've</p> <p>12 been invited into high school classes as well as</p> <p>13 University of Missouri to speak to their school</p> <p>14 of social work as well as their education</p> <p>15 department. Also we find it very helpful to</p> <p>16 educate people about domestic violence. Young</p> <p>17 people coming into this world, especially</p> <p>18 college kids, live in domestic situations and</p> <p>19 they're not even aware of it. So we like to</p> <p>20 spread that knowledge.</p> <p>21 Specifically as an investigator and</p> <p>22 police officer we do follow-up work. We pick up</p> <p>23 for law enforcement where the patrol officers</p> <p>24 leave off. In many communities -- I was talking</p> <p>25 to a detective from Cole County. Their deputies</p>	<p>Page 75</p> <p>1 -- has a first flush appeal to it, this seems</p> <p>2 like as impactful as anything in keeping a</p> <p>3 witness -- keeping a victim cooperative. If a</p> <p>4 detective who understands the issue pays a visit</p> <p>5 within 36 hours of the police coming to the</p> <p>6 home, I would imagine that is incredibly</p> <p>7 impactful.</p> <p>8 MS. COBLE: It changes everything.</p> <p>9 When you show up it --</p> <p>10 ATTORNEY GENERAL KOSTER: For a</p> <p>11 secondary statement, because the psychological</p> <p>12 effect of, you know, I need him out, please come</p> <p>13 and take him out versus I have now sat down with</p> <p>14 a detective from my local police department and</p> <p>15 put my word on the line. Big step forward.</p> <p>16 MS. COBLE: Well, and I matter. You</p> <p>17 know, you've shown up. My case matters. And</p> <p>18 that's -- that engages you in -- and builds the</p> <p>19 trust that you need to go through with the case.</p> <p>20 MR. DOCHLER: That is huge, yes. And</p> <p>21 if I may expound on that? It kind of leads</p> <p>22 right into my next thing; our case load.</p> <p>23 Typically our case load at the Columbia</p> <p>24 Police Department, we receive 80 to 100 domestic</p> <p>25 violence cases per month. That's split up</p>

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1 between two detectives. That's 40 to 50 each  
 2 that we require. Okay? Along with what you  
 3 said; that face-to-face contact. That is we are  
 4 grant funded through STOP. And like you said,  
 5 funding and cuts and people, it's a competitive  
 6 bid. We need that money to continue on our  
 7 goal. One of the things that we would like to  
 8 do to increase our service to victims is  
 9 increase the face-to-face contact that we have.

10 When we have an incredibly high case  
 11 load like we do now and something just -- we  
 12 have a homicide or something else happens in our  
 13 department that we have to respond to that takes  
 14 our resources, our cases don't stop. They  
 15 continue to stack up which means our level of  
 16 service sometimes drops until we can get caught  
 17 back up. That may mean they get a letter  
 18 instead of a face-to-face visit or a phone call  
 19 instead of a face-to-face visit.

20 ATTORNEY GENERAL KOSTER: Bob, can I  
 21 ask you a couple of questions?

22 MR. DOCHLER: Yes, sir.

23 ATTORNEY GENERAL KOSTER: What  
 24 percentage of follow-up interactions are  
 25 face-to-face -- or -- yes. What percentage of

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1 MR. DOCHLER: There is no standard. It  
 2 depends on the victim. Obviously, we would like  
 3 to have her in our environment where we have our  
 4 equipment handy and if things need to change, we  
 5 can, but if that is a hindrance or a problem we  
 6 are more than welcome to go out to the -- we  
 7 make ourselves available, yes, sir.

8 REPRESENTATIVE KELLY: I want people to  
 9 hear what you're saying when you say 80 to 100.  
 10 That's CPD.

11 MR. DOCHLER: That's Columbia Police  
 12 Department alone.

13 REPRESENTATIVE KELLY: That means  
 14 another 50 to 70 in Boone County Sheriff?

15 MR. DOCHLER: I'd say that's a good  
 16 possibility.

17 REPRESENTATIVE KELLY: And that's  
 18 consistent with the docket that I had. That  
 19 means minimum 130 a month actual cases where the  
 20 police become involved in Boone County. That  
 21 means 1500 women or cases a year in Boone County  
 22 alone. And if you extrapolate that out to the  
 23 State, people think of this as some kind of  
 24 ancillary or small issue. This is a huge both  
 25 health and safety and public policy issue, and

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1 the follow-up actions are face-to-face? And  
 2 then how many of those -- break those down  
 3 between visits that you pay to the home versus  
 4 visits where you've asked the victim to come  
 5 into the police station.

6 MR. DOCHLER: And not to shirk the  
 7 question, because it's a good question, but it's  
 8 a complicated question. I do not have the  
 9 percentages of face-to-face. I can tell you --

10 ATTORNEY GENERAL KOSTER: Just  
 11 anecdotally what would you guess? More than  
 12 half?

13 MR. DOCHLER: Less than half.

14 ATTORNEY GENERAL KOSTER: Less than  
 15 half are face-to-face?

16 MR. DOCHLER: Yes.

17 ATTORNEY GENERAL KOSTER: Because you  
 18 can't do 80 a month? There's not enough time?

19 MR. DOCHLER: Not enough time. The  
 20 ones that we -- and we strive to have  
 21 face-to-face contact with are especially the  
 22 ones that we want additional evidence.

23 ATTORNEY GENERAL KOSTER: Is standard  
 24 practice for the victim to come into the  
 25 department or for you to go to them?

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1 people ought to perceive the numbers involved in  
 2 what is actually domestic terrorism.

3 MR. DOCHLER: Yes, sir. And if I may  
 4 add to that. Statistics show that the majority  
 5 of people in an abusive relationship don't  
 6 report. So this is just the tip of the iceberg  
 7 of people that are reporting, not the vast  
 8 majority that's going unreported that the  
 9 domestic violence shelters are seeing or the  
 10 hospitals are seeing.

11 REPRESENTATIVE NEWMAN: Excuse me,  
 12 Detective. Is there a way that you can address  
 13 real quickly what your department does in terms  
 14 of incidents of firearms when you are first  
 15 responding to situations in terms of what you  
 16 are allowed to do in terms of removing the  
 17 firearms if you feel like there's a definite  
 18 threat?

19 MR. DOCHLER: Yeah. If there's a  
 20 definite threat and firearms present or used in  
 21 violation of the crime, they're collected as  
 22 evidence and removed from the scene.

23 REPRESENTATIVE NEWMAN: Thank you.  
 24 MR. DOCHLER: I've kind of gotten away  
 25 from time here. I don't know how close you're

21 (Pages 78 to 81)

<p>1 going to hold me to the time constraint. I 2 don't want to hold things up. But basically, 3 that's an overview of the DOVE department in a 4 nutshell.</p> <p>5 We teach our own offices evidence-based 6 prosecution, and that is something that we think 7 is important to the successful prosecution of 8 these cases. There are some -- I was asked to 9 kind of brainstorm and think of some areas that 10 I thought would be beneficial to us as law 11 enforcement through a law enforcement 12 perspective to help in this crusade against 13 domestic violence.</p> <p>14 No. 1, the ability to hold arrested 15 subjects for a minimum of 24 hours. Why is this 16 important? I'd like to explain. Quite often -- 17 Prosecutor Knight was exactly correct. 18 We arrest someone for domestic violence. 19 Usually -- and I have seen it with my own eyes. 20 Within two to three hours the person has been 21 processed through our facility, processed 22 through Boone County, posted bond and is out.</p> <p>23 Recently, we had a situation where a 24 suspect was arrested for domestic violence; 25 boyfriend and girlfriend, did not live together.</p>	<p>Page 82</p> <p>1 and take a look, we're asking victims to make 2 life-altering changes; to make moves of 3 households, children sometimes, property, all 4 things that are of great value to them, and 5 we're asking them to do it in a timeframe of a 6 few hours in fear that he's going to come back 7 out and catch them in the process.</p> <p>8 I think this would be a huge step in 9 giving them the time to think about orders of 10 protection with a clear mind, think about the 11 services that are available to them and get 12 connected with victim services, such as True 13 North Shelter, and then take it a step further; 14 if they're ready to leave an abusive 15 relationship to give them the opportunity to get 16 out.</p> <p>17 Second, if I have -- am I over?</p> <p>18 ATTORNEY GENERAL KOSTER: Go ahead, 19 Bob.</p> <p>20 MR. DOCHLER: Currently, law 21 enforcement officers in our state such as city 22 police officers do not have the ability to hold 23 someone that they come across that is a 24 respondent of an ex parte and has not yet been 25 served. To help clarify that let me give you an</p>
<p>1 He went to jail, was allowed to post bond. She 2 went to a friend's house for safety. She went 3 back to her residence to obtain some personal 4 items so that she could extend her stay away 5 from home until she felt it safe to come back, 6 and when she came back to get her property, he 7 had broken into the house and was in her bed 8 within a few hours. This should not be 9 occurring.</p> <p>10 I believe that if we were able to put 11 something like this in place, a mandatory hold 12 on domestic violence arrests, the benefits would 13 be huge at multiple levels. One, there would be 14 a definite cooling-off period. Domestic 15 violence is full of emotions and a period like 16 that would give people the opportunity to cool 17 off. Second, suspects of domestic violence are 18 quite often intoxicated or under the influence 19 of some other kind of drug. This would be a 20 sobering up period. Third, domestic violence 21 victims; we often -- on the street we give them 22 several remedies. Hey, let us help you get out 23 of this situation. We always question why are 24 they going back to the situation.</p> <p>25 Well, you know what? If we'd step back</p>	<p>Page 83</p> <p>1 example, a quick one.</p> <p>2 I arrest someone for domestic assault. 3 He bonds out within a few hours. The victim in 4 the meantime has obtained an order of protection 5 or an emergency order of protection but he 6 bonded out before he could get served. I run 7 into him at QuikTrip, and I make a simple 8 inquiry through our joint communications, has 9 this gentleman been served yet? No. He got out 10 before he could be served. Unless I have 11 another violation I cannot hold this individual 12 until a Boone County Sheriff's deputy responds 13 with the appropriate paperwork. If we're 14 looking at victims' safety this is a problem.</p> <p>15 REPRESENTATIVE KELLY: And tell why 16 that's important, though, to serve them. Nobody 17 understands that if you can't serve them, you 18 can't get the criminal violation.</p> <p>19 MR. DOCHLER: If it's not served, it's 20 not in effect. Okay? That's why Prosecutor 21 Knight mentioned the no-contact provision. I 22 think that is huge. If we could make that -- 23 it's one of the loopholes that could be plugged. 24 You know, orders of protection are not the best 25 option for every victim of domestic violence.</p>

22 (Pages 82 to 85)

<p>1 It's just -- it's not the best option for them 2 all.</p> <p>3 The ones who choose not to, it's kind 4 of nice to know that there's a mandated 5 condition through this bond that he can't have 6 any contact with her. And folks, sometimes they 7 don't even wait to get out of jail before they 8 start to contact them. We've got jail calls to 9 prove it. They'll call wanting them to post 10 their bond. They start in with this 11 intimidation towards victim tampering, but, 12 again, it is something that is very difficult 13 for law enforcement to prove.</p> <p>14 We all know that probable cause to 15 arrest does not always equate to proof beyond a 16 reasonable doubt for successful prosecution, and 17 --</p> <p>18 ATTORNEY GENERAL KOSTER: Bob, there 19 are constitutional issues so I don't even know 20 if what I'm about to say is a good idea, but let 21 me throw it out there.</p> <p>22 MR. DOCHLER: Sure.</p> <p>23 ATTORNEY GENERAL KOSTER: What if there 24 was a -- kind of a three-part process that we 25 went to; a 12-hour mandatory hold, a 48-hour</p>	<p>Page 86</p> <p>1 are your conditions for domestic violence 2 arrests?</p> <p>3 MR. DOCHLER: Our conditions for us to 4 make an arrest?</p> <p>5 MS. NEWMAN: Correct.</p> <p>6 MS. DOCHLER: I'd be happy to. No. 1, 7 we make -- generally we're responding to a call 8 for help; 911 call either from someone involved 9 or a bystander worried about someone's safety. 10 Officers arrive on the scene, and they need to 11 make some quick assessments. One, has a crime 12 been committed. You know, in this case usually 13 assault or some of the other violations that go 14 along with it. We need to determine if it's a 15 domestic violence situation, and that can -- 16 we're all familiar with the intimate partner; 17 husband, wife, boyfriend, girlfriend, etc., but 18 they also include anyone who's 17 years or older 19 who may live in the same house or be blood 20 related. It all falls under the domestic 21 violence laws. We only deal with intimate 22 partners on a follow-up basis.</p> <p>23 To answer your question. We need to 24 determine, one, has a crime been committed; two, 25 does it fall under the domestic violence laws,</p>
<p>1 condition of probation where there is no contact 2 automatic, and a demand that the defendant or 3 the subject return to the sheriff's department 4 at the end of the 48-hour period essentially to 5 make an affirmation that there's been no 6 contact? But what it does is it gives you an 7 opportunity to serve him if there's been a -- 8 some kind of order of protection -- temporary 9 order of protection has been obtained in the 10 interim.</p> <p>11 REPRESENTATIVE KELLY: I knew there was 12 a reason I voted for you. That is a really, 13 really interesting idea. It really is.</p> <p>14 MR. DOCHLER: And, you know, sir, in 15 response I'd say any efforts towards making 16 changes towards that I'd clap my hands and say 17 thank you. And, you know, the best you can do 18 is put it in place, see how it works, and if 19 additional changes need to be made down the 20 line, re-assess and go forward.</p> <p>21 ATTORNEY GENERAL KOSTER: Do you have 22 other -- yes, ma'am?</p> <p>23 MS. NEWMAN: One other question. For 24 those of us who are not in law enforcement, can 25 you explain, just very briefly summarize, what</p>	<p>Page 87</p> <p>1 and then once we've established that then 2 there's a little more work we need to do.</p> <p>3 The big thing here is is we need to 4 determine a primary dominant physical aggressor, 5 and that is not always the person who started 6 the fight. There's various things that go into 7 the determination of the primary physical 8 aggressor. Who has inflicted the most harm. 9 Who has the most means to. If I'm 6 foot, 5, 10 weigh 300 pounds, and my victim is 5 foot 11 nothing and 100, it's easy to see, and you can 12 articulate why there would be a level of fear 13 there or intimidation or a safety factor.</p> <p>14 Once a primary physical aggressor is 15 determined we can use past history, past law 16 enforcement knowledge of situations between the 17 two, all can go into making that determination.</p> <p>18 If we've got probable cause, we've got a 19 dominant aggressor, we're going to make an 20 arrest if that person is there. I applaud our 21 police department. Our policies are more strict 22 than state law, and they say that. If we have 23 that equation there; probable cause, dominant 24 aggressor, we will make an arrest. No 25 discretion from our officers at CPD.</p>

23 (Pages 86 to 89)

<p>1        If the suspect is not there, it's      2 mandated that we do certain things too. In      3 addition to offering judicial remedies, how to      4 get an order of protection, offering of medical      5 assistance to the victim, we are mandated by our      6 policy to make a good faith effort to locate      7 that suspect within our shift immediately, put      8 out other information; we call it stop and hold      9 information to all officers; be on the lookout      10 for John Doe wanted for domestic assault. This      11 is his description. And then if we cannot find      12 him in our good faith effort we will go back to      13 the police department and submit a warrant      14 request to the prosecuting attorney's office      15 before the end of our shift. That is how      16 seriously we take this.</p> <p>17       Does that answer your question, ma'am?</p> <p>18       MS. NEWMAN: Yes, sir. Thank you.</p> <p>19       ATTORNEY GENERAL KOSTER: Any other      20 questions for the detective? Thank you, Bob.      21 Not only have you provided a wealth of really      22 good information, but for all the people who are      23 Columbia residents in the room, what they      24 clearly have is not only a person who's making a      25 difference in their community but a guy who very</p>	<p>Page 90</p> <p>1       is that I probably should touch on a couple      2 subjects before I get into the actual training      3 part, and I want to talk about victim advocates;      4 system victim advocates.</p> <p>5       My colleague from Columbia is a very      6 fortunate individual. Columbia is very      7 fortunate to have a DOVE unit and to have so      8 many people available for resources. But when      9 we talk about rural areas such as where I'm from      10 in Cole County and others, I teach at the      11 Missouri Sheriff's Association Academy, and I      12 teach young men and women from across the State,      13 but mainly Central Missouri where we don't have      14 all those resources available to us.</p> <p>15       What I do have in my county is a victim      16 advocate. She's system based. She's paid by      17 the State, works for our prosecutor. Without      18 her our domestic violence cases would be nil,      19 none. We wouldn't get anywhere. Anywhere fast      20 anyways. Our deputies start the domestic case      21 and they end the domestic violence case through      22 its end goal. If it's a felony level domestic      23 violence case, I will pick it up and assign it      24 to one of my detectives or I'll take it, and we      25 do our best. But without her out there in the</p>
<p>1       sincerely -- the sincerity of your commitment to      2 learning the issue and making a difference comes      3 through very strongly. So I thank you on behalf      4 of a lot of people who I'm sure want to thank      5 you.</p> <p>6       MR. DOCHLER: And I thank you for all      7 your time. Have a good day.</p> <p>8       ATTORNEY GENERAL KOSTER: Next up is      9 Detective Robert Bruchsaler and Catherine      10 Vannier. Detective Bruchsaler is with the      11 investigations and narcotics division of the      12 Cole County Sheriff's Department. Welcome and      13 thank you for coming and speaking with us today.</p> <p>14       Catherine is the family violence      15 resource prosecutor with the Missouri Office of      16 Prosecution Services. Catherine, if you'd like      17 to sit with us at the witness table, and we'll      18 just go one following the other.</p> <p>19       TESTIMONY</p> <p>20 BY MR. BRUCHSALER:</p> <p>21       Well, thank you for having us. We      22 appreciate it. I'm here to talk about training      23 of law enforcement officers on the academy level      24 and afterwards.</p> <p>25       What I've learned so far this morning</p>	<p>Page 91</p> <p>1       frontlines with us every single day our victims      2 suffer. And this is what it's all about. At      3 the end of the day it's about the victim and      4 making sure that that victim gets to the      5 resources that they need to get to and get the      6 help that they need.</p> <p>7       I can't stress upon this committee      8 enough that there's just not enough of them out      9 there. We have one for an entire county and      10 city; Jefferson City, Missouri, and there's no      11 way she can touch them all. It's impossible,      12 you know. And I've worked with her hand in hand      13 at two, three, four o'clock in the morning,      14 going 36 hours straight, and she's a trooper.      15 And everyone that's like her that's out here in      16 the State of Missouri are the same. So I --      17 it's incumbent upon the State of Missouri to try      18 to get some more of those people out there      19 working for us because law enforcement in a      20 rural community doesn't have the time to follow      21 up the next day or the next two days or three      22 days later to meet that victim face to face. We      23 try our best. We do what we can. But at the      24 end of the day that's the person that does that      25 job for us. All right. Off my soapbox, and</p>

24 (Pages 90 to 93)

<p>1 onto training.</p> <p>2 We offer 40 hours of basic training for 3 domestic violence at the academy level. It 4 covers the gamut from what is domestic violence 5 to how do we deal with domestic violence, how do 6 we respond to the call, what's the safest thing 7 to do, how do we help our victim, what are we 8 required by law to do, what we're, you know, 9 required to let our students know, what they 10 have to do for the victim, and at the end of the 11 day that's what it's about for me.</p> <p>12 ATTORNEY GENERAL KOSTER: To proportion 13 that remind me of the number of hours required 14 for a peace officer certification.</p> <p>15 MR. BRUCHSALER: Well, it's minimum of 16 40 for peace officer certification. I think the 17 statute says 30 but we do 40.</p> <p>18 ATTORNEY GENERAL KOSTER: That's 40 for 19 domestic violence.</p> <p>20 MR. BRUCHSALER: Correct.</p> <p>21 ATTORNEY GENERAL KOSTER: But for the 22 entirety of the peace officer certification. To 23 get POST certified as a deputy sheriff in the 24 State of Missouri.</p> <p>25 MR. BRUCHSALER: Minimum is 470.</p>	<p>Page 94</p> <p>1 disorders. We list and describe common 2 characteristics of victims. We describe the 3 emotional effects of domestic violence on 4 children. We list elements of emotional abuse. 5 We list elements of physical abuse and sexual 6 abuse. We describe significance of the power 7 and control wheel as it relates to domestic 8 violence.</p> <p>9 We list and describe the three phases 10 of the cycle of violence. We list and describe 11 reasons why leaving is so difficult for victims 12 of domestic violence. We list three instances 13 or conditions for which immediate response to 14 domestic violence calls is mandated by the 15 Missouri Adult Abuse Act. We define the term 16 primary physical aggressor as it relates to the 17 Missouri Adult Abuse Act, and list three factors 18 considered when determining the identity of the 19 primary physical aggressor.</p> <p>20 We identify two types of protection 21 orders available under the Missouri Adult Abuse 22 Act and describe the differences between them. 23 We list the five criminal terms and conditions 24 that may be included in an ex parte and full 25 orders. We list three situations or instances</p>
<p>Page 95</p> <p>1 ATTORNEY GENERAL KOSTER: 470. So a 2 substantial part of the 470 is dedicated; 10 3 percent dedicated to this issue.</p> <p>4 MR. BRUCHSALER: I just spent the last 5 two weeks teaching a class of students domestic 6 violence. It was over a week long.</p> <p>7 I'd like to go over the objectives so 8 you know what we're doing in the schools, what 9 we're teaching. And I'm just going to briefly 10 cover each objective, and then if you have any 11 questions about those objectives, please let me 12 know, and I'll try my best to answer them. 13 They're up there if you want to read them.</p> <p>14 We define the term crisis and identify 15 two common crisis responses by victims to law 16 enforcement. We explain the difference in 17 perception of domestic violence between the 18 peace officer and the victim. We define 19 domestic violence. We define the term abuse as 20 it relates to domestic violence calls under the 21 Missouri Adult Abuse Act. We define family or 22 household member under the Adult Abuse Act. We 23 list the common characteristics of a batterer.</p> <p>24 We identify the main causes of 25 battering and how it relates to mental</p>	<p>Page 97</p> <p>1 when peace officers are required to make an 2 arrest with probable cause under the Missouri 3 Adult Abuse Act. We identify when mandatory 4 reporting is required under the Missouri Adult 5 Abuse Act. We list two services that the 6 Missouri Adult Abuse Act requires peace officers 7 to provide victims of domestic violence.</p> <p>8 We list and explain the elements of the 9 following crimes: First degree domestic assault, 10 second degree, third degree, stalking, 11 aggravated stalking, interstate domestic 12 violence, interstate stalking, interstate 13 violation of order of protection, possession of 14 a firearm while subject to protection order, 15 possession of a firearm while subject to 16 protection order, possession of firearm after 17 conviction of a misdemeanor crime of domestic 18 violence.</p> <p>19 We define the full faith and credit as 20 it results to foreign orders. We list the 21 circumstances when an officer is or is not 22 immune from liability in any civil action 23 alleging false arrest, false imprisonment or 24 malicious prosecution concerning domestic 25 violence situations. We list the general</p>

25 (Pages 94 to 97)

<p>1 guidelines for law enforcement responses to 2 domestic violence calls. We list primary points 3 that should be included in an officer's 4 investigation and report concerning domestic 5 violence. We list interview techniques to 6 consider during domestic disturbance. We list 7 additional dynamics to heterosexual domestic 8 violence faces by same gender survivors. 9       We describe why coordinated community 10 response to domestic violence is important. We 11 list and describe four profiles of stalkers and 12 demonstrate through role play the proper 13 techniques to diffuse domestic disturbance and 14 the proper methods to handle domestic violence 15 situations. 16       For me when I'm teaching I think the 17 most critical part of this whole thing, and I 18 can go through all these objectives with all 19 these students, is evidentiary issues. For me 20 I'm a proponent of no victim should ever be in a 21 court of law. No need. If an officer is doing 22 their job upfront and is trained properly, they 23 can make such a case to where the victim should 24 never have to step foot in a court of law. And 25 that's what I teach.</p>	<p style="text-align: right;">Page 98</p> <p>1 severely beaten, and how do you handle that. So 2 I teach them compassion, the foremost -- is 3 probably the most important thing when it comes 4 to relations with the victim is compassion. 5       You know, these kids are on their fifth 6 or sixth domestic violence call for the night, 7 their tenth for the week, their fiftieth for the 8 month. You tend to get a little burned out, and 9 it's always good to show them that you need to 10 step back and put your biases in your pocket and 11 realize that you're there for the victim, and 12 that's -- at the end of the day that's what 13 we've got to accomplish is make sure the victim 14 gets justice. 15       ATTORNEY GENERAL KOSTER: Where is the 16 academy located physically? 17       MR. BRUCHSALER: Well, the Missouri 18 Sheriff's Association has academies -- academies 19 all over the state. The one I teach at is in 20 Jefferson City, Missouri. 21       ATTORNEY GENERAL KOSTER: And how many 22 classes a year does the academy rotate through? 23       MR. BRUCHSALER: In Jefferson City we 24 do full time and a part time every year; 25 full-time academy and a part-time academy.</p>
<p>1 I teach them how to make the best case 2 possible; to describe when they're writing their 3 reports the emotional state of both parties, the 4 demeanor of both parties, the photographic 5 evidence, the medical evidence, the follow-up 6 days afterwards to make sure we get those two or 7 three-day later photographs. To bring that 8 victim advocate to bear so that that victim has 9 somebody -- a face to identify with and that 10 person is going to remain cooperative. That 11 they know they have somebody to go to 24 hours a 12 day. 13       When we talk about role playing, you 14 know, I put these young men and women through 15 some pretty heinous stuff. We bring in people 16 that have been prior victims of domestic 17 violence and have them talk to the students. I 18 bring in the assistant prosecutor and have them 19 talk to the students about what it takes to make 20 a case. I bring in the victim advocate and talk 21 about what that person does with the students. 22 When they do these role playing exercises, they 23 do everything from the most violent deadly force 24 situations to the most passive moments where 25 you've got a victim that just won't talk that's</p>	<p style="text-align: right;">Page 99</p> <p>1       ATTORNEY GENERAL KOSTER: How many 2 graduates per year go through the academy in 3 Cole County? 4       MR. BRUCHSALER: Total I would say 5 we're right on the average of about 30 students 6 a year just out of the Jefferson City office. 7       ATTORNEY GENERAL KOSTER: And when you 8 teach the domestic violence segment, is it a 9 solid week for them? 10       MR. BRUCHSALER: Yes. 11       ATTORNEY GENERAL KOSTER: And are you 12 -- you're the only domestic violence professor 13 that they have? 14       MR. BRUCHSALER: Currently. There are 15 others that are just as qualified as I am to 16 teach, but currently I handle that case -- or 17 that -- 18       ATTORNEY GENERAL KOSTER: And the total 19 curriculum is 440 hours you say? 20       MR. BRUCHSALER: 470. 21       ATTORNEY GENERAL KOSTER: 470. So 22 across the State is a 10 percent -- so like 40 23 hours would be 8, 9 percent of that. Is a 24 dedication of 8 to 10 percent of the academy's 25 resources true across the State or is it</p>

26 (Pages 98 to 101)

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1 individual to your academy? Do you know the  
2 answer?

3 MR. BRUCHSALER: Well, statutorily  
4 they're required to provide that much training  
5 at every academy regardless of what academy you  
6 go to.

7 ATTORNEY GENERAL KOSTER: Okay.

8 MR. BRUCHSALER: Now, follow-up  
9 training afterwards is incumbent upon that  
10 department and what they're willing to put  
11 forth. You'll find that most departments that  
12 I've seen really work hard at making sure that  
13 the domestic violence training follow-up after  
14 you graduate the academy and you've been on the  
15 road for a while and it's part of your regular  
16 48 hours every reporting period, they cover it.  
17 We do. At least in my jurisdiction.

18 ATTORNEY GENERAL KOSTER: That's the  
19 continuing law enforcement --

20 MR. BRUCHSALER: Continuing education,  
21 yes.

22 ATTORNEY GENERAL KOSTER: Continuing  
23 education requirement is 48 hours a year?

24 MR. BRUCHSALER: Yes. Well, three  
25 years.

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1 entire house; how much disarray it's in. The  
2 suspect, I need a full frontal photo. I need a  
3 full body shot of him. I want to know what his  
4 demeanor is.

5 I want to give my prosecutor every  
6 possible tool they can have in their tool bag so  
7 when they get up in court they can do their show  
8 up on the big screen and go, look at him. He's  
9 sitting over here in a three-piece suit and, you  
10 know, has a nice haircut, but here he is in the  
11 wife-beater looking like he's wanting to kill  
12 somebody. Not the same guy. You know, the  
13 blood trail through the house, the broken  
14 dishes, the busted plant holders, whatever it  
15 is.

16 We just -- sometimes we don't do a good  
17 enough job of getting the evidentiary stuff that  
18 we need to make our case. Or I get that two or  
19 three photos of the victim's injury but I don't  
20 get a picture of the victim. And I want to see  
21 her demeanor. I want to see her fear. I want  
22 to see her emotional state when we get up on the  
23 stand. I want that picture on the wall. That's  
24 what makes a jury --

25 MS. COBLE: What do you think is the

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1 ATTORNEY GENERAL KOSTER: 48 hours  
2 every three years?

3 MR. BRUCHSALER: Yes, sir.

4 ATTORNEY GENERAL KOSTER: Other  
5 questions? I want to welcome State  
6 Representative Mary Still who's joined us this  
7 morning. Thank you for coming. Thank you for  
8 your service as well.

9 REPRESENTATIVE STILL: Thank you.

10 ATTORNEY GENERAL KOSTER: Colleen, go  
11 ahead.

12 MS. COBLE: I just want to follow up on  
13 your statement given in our earlier discussion  
14 this morning about spousal privilege and your  
15 approach to doing investigative work so that the  
16 case can be made without a victim's testimony.  
17 How widespread do you think that approach is  
18 among your colleagues?

19 MR. BRUCHSALER: Well, I can only speak  
20 for my jurisdiction, and I preach it every day.  
21 Either that's a nasty e-mail for why didn't you  
22 take more photographs to, you know, great job.  
23 Or when I teach my fellow officers domestic  
24 violence I discuss these issues: You need to do  
25 a better job of getting photographs of the

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1 biggest obstacle to being able -- is it training  
2 or is it a combination of training, resources  
3 and perhaps even leadership from within the  
4 department?

5 MR. BRUCHSALER: All of those things.  
6 Every single one of them. It's training. It's  
7 lack of resources. It's -- I've got -- I'm  
8 stacked up five calls. I've got to get going.  
9 You know, I've got to get this victim somewhere  
10 where she needs to be. I've moving quick.  
11 Supervisor not showing up to the call for  
12 whatever reason. Maybe they're on a different  
13 call. You know, depending on your manpower  
14 really. But it does come down -- at the end of  
15 the day it's about compassion and training. You  
16 know, I've got to do my best, and that's what we  
17 preach at Missouri Sheriff's Association. We  
18 try to teach them to, you know, give it  
19 everything they've got for that moment. And  
20 you've done your job for that day. No matter  
21 what happens tomorrow at least we've  
22 accomplished this today.

23 ATTORNEY GENERAL KOSTER: Colleen, what  
24 is your -- what is your reaction, Colleen, to  
25 the training question? I mean, my reaction -- I

<p style="text-align: right;">Page 106</p> <p>1 think I knew but had forgotten that there was a 2 40-hour requirement, but when you consider the 3 fact that 10 percent of training resources 4 approximately are dedicated, at least at the 5 standard peace officer level, because the 6 highway patrol has got a higher training 7 requirement, are dedicated to this, my sense is 8 that the training piece is pretty strong in 9 Missouri. What is your feeling?</p> <p>10 MS. COBLE: I think as a percentage 11 it's strong. The question is the ongoing 12 training and for officers POST -- they've gone 13 through the POST certified to get their 14 commission, but what are we doing as follow-up 15 and ongoing training. And I know that's a lot 16 of what Catherine does.</p> <p>17 MR. BRUCHSALER: Well, we have 18 Catherine.</p> <p>19 MS. COBLE: And there's one person. 20 You know, what are we doing around the State?</p> <p>21 ATTORNEY GENERAL KOSTER: And there's 22 no mandatory -- you know, to say two hours every 23 three years for domestic violence continuing 24 education. There's no continuing education 25 requirement?</p>	<p style="text-align: right;">Page 108</p> <p>1 extrapolated them for the State, and I got an 2 absolute minimum of 35,000 cases a year in 3 Missouri, and Colleen thinks it's 38 to 40,000. 4 But 35,000 cases a year. You're right now able 5 to train 30 new people a year.</p> <p>6 MR. BRUCHSALER: Well, that's new 7 people.</p> <p>8 REPRESENTATIVE KELLY: Right. But that 9 does not -- the State of Missouri could do a lot 10 better. If we take the concept of domestic 11 terrorism seriously, we could be allowing you to 12 train 300 a year.</p> <p>13 MR. BRUCHSALER: Well, sure. That's 14 not to say 300 aren't being trained a year. 15 Again, I'm just one little satellite spot in one 16 little spot in the State. There are domestic 17 violence trainers all over the State in law 18 enforcement academies. I can't even begin -- I 19 think, you know, the academy can probably talk 20 best to that as far as how many classes they 21 have, how many people are being trained on an 22 annual basis throughout the State. That goes 23 the same for Missouri Police Chiefs Association, 24 Springfield's academy, Kansas City's academy, 25 St. Louis's academy, St. Charles. There's</p>
<p style="text-align: right;">Page 107</p> <p>1 MS. COBLE: No. And part of the things 2 that were discussed at the St. Louis hearing was 3 there's also -- there's no mechanism for 4 evaluation. There's no mechanism in our state 5 to be able to say this is what's going on in 6 Cole County. We can see this by the number of 7 convictions, by the number of arrests, by the 8 number of -- failure to have the repeat offenses 9 again and again with a second victim or a third.</p> <p>10 This is what we're finding out in these 11 counties, and be able to draw some public policy 12 guidance from it that says that because we had 13 this kind of training and leadership or we had 14 these kind of resources. We don't have that 15 structure in place to be able to know anything 16 other than what we know now which are the bright 17 spots which are the exception and not the rule.</p> <p>18 REPRESENTATIVE KELLY: You know, to 19 follow up on your question with the training. 20 You say you could train 30 people a year.</p> <p>21 MR. BRUCHSALER: We could train a lot 22 more but --</p> <p>23 REPRESENTATIVE KELLY: You do train 30 24 people a year. Being a numbers geek I was 25 fooling around with the Boone County numbers and</p>	<p style="text-align: right;">Page 109</p> <p>1 several. So it's being done. I just don't know 2 to what scale. I know what I do.</p> <p>3 I don't think you can legislate like 4 racial profiling. I think what we've found out 5 with racial profiling is that it becomes 6 stagnate, and it's an hour every year, and it's 7 the same hour every year over and over again. 8 There's nothing new. So I don't think you can 9 do that with domestic violence. I think 10 domestic violence -- it's incumbent upon 11 departmental entities to take that on and move 12 forward. DOVE units are great. We'd love to 13 have one. We've allocated space in our new 14 facility to have a DOVE unit. We've got the 15 ground for it to do it. We just need the grant 16 to get it done.</p> <p>17 ATTORNEY GENERAL KOSTER: To the State 18 reps at the table. One of the issues that has 19 come up with regard to racial profiling -- and 20 it's interesting that you bring this up because 21 there are some sort of training parallels and 22 reporting parallels -- is this issue of agency 23 certification. We -- police agencies, police 24 departments, do not have a mandatory 25 certification in the State of Missouri. If you</p>

<p>1 talk to police chiefs you pretty quickly get an      2 idea that going from where we are now to      3 mandatory certification is an awfully big step      4 to take in one step, but that there is an      5 openness among police departments around the      6 State to encourage an expansion of voluntary      7 certification.</p> <p>8 Whether it's domestic violence or      9 racial profiling or any of the other things      10 where public policy, you know, is increasingly      11 getting a spotlight on it, bringing best      12 practices across the departments around the      13 State is -- you know, there's 750 departments      14 out there now.</p> <p>15 A lot of them like Columbia or Cole      16 County are probably in a situation where they're      17 toward the front of the best practices efforts,      18 but a lot are not. And doing more -- thinking      19 more about agency certification is a tool that      20 on a lot of things that we care about as public      21 policymakers is a good way to spread the message      22 across that 750. I think probably it has to be      23 voluntary, but it's an idea that is brewing      24 pretty well, I think, right now among police      25 chiefs across the State.</p>	<p style="text-align: right;">Page 110</p> <p>1 that we as a society are learning when it's not      2 really been our personal experience. And along      3 those lines, I just wondered those of you who've      4 had experience in the courtrooms, how this is      5 with juries and if there's certain parts of the      6 State where it is more accepted and less of a      7 concern than other parts.</p> <p>8 ATTORNEY GENERAL KOSTER: Dan, do you      9 want to answer that question?</p> <p>10 MR. KNIGHT: I wasn't listening.</p> <p>11 ATTORNEY GENERAL KOSTER: The question      12 is how do you feel that juries respond to this      13 issue as a group?</p> <p>14 MR. KNIGHT: Domestic violence in      15 general? You know, it's hard to say. I think      16 that, you know, certainly those issues need to      17 be explored during jury selection. It's a very      18 important part of any case, particularly in      19 these cases. I mean, what would be the issue      20 there?</p> <p>21 ATTORNEY GENERAL KOSTER: Whether the      22 implication was there or not that there's an      23 implication that some areas of the State are      24 more culturally, I don't know, forgiving. If      25 that's the right word.</p>
<p>1 Go ahead, Mary.</p> <p>2 REPRESENTATIVE STILL: Thank you. To      3 pick up on that point. I think what we've seen      4 in society and in my years working in the      5 attorney general's office as well is the      6 mindset. And there is a parallel in some ways      7 to racial profiling. I've always said that      8 about racial profiling; there's a parallel to      9 domestic violence. If you're not in that      10 situation, you don't recognize it. If you came      11 from a solid family and that didn't exist, you      12 don't know about it. And if you're not black,      13 you don't recognize it on the racial profiling      14 aspect of things. So it is things we have      15 learned.</p> <p>16 I think we used to with domestic      17 violence say well, we don't believe that really      18 exists. And then we evolved as a society and      19 said, okay, it exists but not very often, and      20 then we kind of go through -- and then there's      21 sometimes an attitude I've seen in areas of      22 well, bums marry bums. What are you going to      23 do?</p> <p>24 I see it as -- best practices as a way      25 to bring standards and acknowledgement of things</p>	<p style="text-align: right;">Page 111</p> <p>1 REPRESENTATIVE STILL: Callused;      2 callused about it.</p> <p>3 MR. KNIGHT: That could be.</p> <p>4 ATTORNEY GENERAL KOSTER: I am not --</p> <p>5 MR. KNIGHT: That could be. I don't      6 want to disparage any particular county at all.</p> <p>7 ATTORNEY GENERAL KOSTER: And I'm not      8 sure that's true. I think that no matter where      9 you are in the State, I think you put 12 people      10 together and they take the problem seriously if      11 it's presented seriously.</p> <p>12 REPRESENTATIVE STILL: Good. I hope      13 you're right.</p> <p>14 ATTORNEY GENERAL KOSTER: Catherine,      15 the floor is yours.</p> <p>16 TESTIMONY</p> <p>17 BY MS. VANNIER:</p> <p>18 So I wanted to start by saying thank      19 you. It is -- we who do this work and are      20 frontline workers, they are some of the saddest      21 and most traumatic cases that our frontline      22 workers encounter. They take time. They are      23 easy to minimize and tough to sort out, and yet      24 they are some of the most vitally important that      25 our frontline workers encounter every day.</p>

<p>1 It is to easy to get frustrated and sad      2 and full of despair as a frontline worker in      3 this work. So when we get together like this      4 and talk about it and see issues and have      5 discussions and -- so I want to thank      6 Mr. Attorney General and the members of the task      7 force because literally -- and Ms. Coble as      8 well, because this is quite literally a dream      9 come true. So if I stutter or get a little      10 emotional it's because my heart is in my hands      11 because I'm so excited about this opportunity.</p> <p>12 My job is I am the family violence      13 resource prosecutor for the Missouri Office of      14 Prosecution Services. I provide training and      15 technical assistance and resources to      16 prosecutors, law enforcement and all of our      17 allied professionals. I was asked to talk to      18 you today about training law enforcement, and I      19 do a heck of a lot of it. It is my pleasure.      20 It is one of my favorite -- of course, I have      21 many favorites to this job, but one of my      22 favorite parts of the job because our first      23 responders are so very important to the work      24 that we do. They have such an enormous impact      25 on our cases and how our victims are going to</p>	<p>Page 114</p> <p>1 keep it positive and upbeat as we look at this      2 and we talk about what the best way is to      3 respond. This is one of my new favorite slides      4 because one of my parts about this job is how      5 many heros I get to meet across the State of      6 Missouri, and the wonderful things that they do.      7 And one of my jobs, I think, is to inspire folks      8 to be the best they possibly can, and to      9 understand that they are doing just phenomenal      10 work when they respond in a positive and      11 supportive fashion to victims.</p> <p>12 I have a video that is fairly graphic      13 that I play from the -- that was prepared by the      14 California POST program for peace officer      15 standard training in California. I do use 911      16 calls, other ways of trying to bring home the      17 importance of presenting these cases as strongly      18 as possible in Court. And also to understand      19 the importance of bringing this proof to court      20 at the level of a misdemeanor before it gets to      21 that level of homicide. We do know that the      22 more we can hold abusers accountable at a      23 misdemeanor level, we are doing nothing short of      24 homicide prevention.</p> <p>25 US Department of Justice tells us</p>
<p>1 survive these situations and how our abusers are      2 going to be held accountable.</p> <p>3 So I have a little Powerpoint.      4 I took it down from about 120 slides to 20 so      5 it's just going to be real quick. I promise.      6 This is basically a synopsis of the type -- the      7 most common training that I do, and this is to      8 distinguish from what Sergeant Bob was talking      9 about. This is the continuing ed piece. This      10 is a 4-hour class. It has been -- I have done      11 it as long as 8 hours, and so 4 to 8 hours in      12 many, many different jurisdictions around the      13 State trying to reach those law enforcement      14 agencies that maybe don't have the resources      15 that Boone County does. Cole County is one      16 place that I've been a whole lot. Gosh. Bob is      17 probably a little sick of me I've been there so      18 much. But they're good with it, right?</p> <p>19 MR. BRUCHSALER: They're all good.      20 MS. VANNIER: So the -- I'm going to      21 try to tell you about this because this has      22 worked pretty well. What we have is a series of      23 slides and training examples. I try to use -- I      24 try to keep it lively. I try to keep it lively,      25 try to keep it interactive and most important to</p>	<p>Page 115</p> <p>1 between three and four women per day are killed      2 by their intimate partners. That statistic and      3 all the studies that we do drive me nuts because      4 they don't include the children and the grandmas      5 and the peace officers and the innocent      6 bystanders along with the tragic things that      7 happen all the time. So it's very important      8 that we bring that home.</p> <p>9 We try to use case examples. This is      10 one case example that I use. It's an actual      11 case. What we try to do is look at these and      12 try to figure out what we can learn from them.      13 We try to talk about how to respond to victims,      14 understand the stress reactions that victims may      15 have in responding to these cases. We try to      16 take this -- this is a power and control wheel,      17 but it's one of my favorite versions of the      18 power and control wheel because we try to look      19 -- this is a tool in teaching about domestic      20 violence. We want to look at the dynamic of      21 domestic violence, but I also understand that      22 this is absolutely very useful in law      23 enforcement because it allows for us to --      24 first, there was some talk earlier about the      25 determination of the dominant aggressor. This</p>

30 (Pages 114 to 117)

<p>1 is a pie chart to the determination of the      2 dominant aggressor. It is also a way of seeking      3 additional charges because we have to be      4 creative and use every possible charge and every      5 possible tool we have.</p> <p>6 I have done -- there have been a number      7 of places, Cole County being a very good      8 example, where I've been asked back. So I've      9 tried to continue that continuing ed. So I've      10 developed additional courses. What has come out      11 of our dominant aggressor conversation is a      12 whole new separate class on dominant aggressor.      13 We have now a special issues -- just next week      14 I'll be in Kansas City doing special issues in      15 investigating domestic violence cases; stalking      16 and strangulation.</p> <p>17 I think absolutely that we need to have      18 a continuing ed requirement on domestic      19 violence. I think it's very important the --      20 that we also avoid the trap that Sergeant      21 Bruchsaler -- that he was talking about, the      22 racial profiling rut that we've sort of fallen      23 into. So we want to be careful of that, and we      24 want to be sure that we have quality and      25 meaningful training, but we do want to keep up</p>	<p style="text-align: right;">Page 118</p> <p>1 be able to assist us in prosecution. We do know      2 now that a number of our cases are going to      3 require that right of confrontation that the      4 victim be present in court because so many of      5 our cases are delayed reporting, and we don't      6 have excited utterances, and we don't have the      7 immediate investigation that happened. So we      8 talk about that and ways to look at that.</p> <p>9 We look for additional ways to find      10 evidence. We talk about the importance of      11 follow-up investigation. This is one of my      12 training examples. This is -- a good solid      13 investigation happened in this case. She had a      14 red mark to the eye, domestic assault third was      15 charged. She had a good advocate working with      16 her after the incident was charged who talked      17 her into getting follow-up medical treatment. I      18 think a lot of our victims go without the needed      19 medical treatment after the fact. But she was      20 talked into it. She had a blown-out orbital      21 bone so the case went from a domestic assault      22 third to a domestic assault first because of the      23 help of the advocate in that case. Very, very      24 meaningful help there.</p> <p>25 So we talk about the different ways</p>
<p>1 that training as much as possible.      2 We go through the statutory      3 requirements, of course, and case law, reasons      4 to care about cases. Of course, we know so much      5 about the impact of children in violent homes.      6 We go through the nuances of handling children      7 in an investigation, how to interview, how to      8 work and document their presence. We      9 specifically talk about the burden of proof;      10 that a prosecutor has a much higher burden of      11 proof than a law enforcement officer. A law      12 enforcement officer is also looking at probable      13 cause, and we're going to beyond a reasonable      14 doubt and working that as well.</p> <p>15 We look at the legal requirements and      16 documentation issues. Of course, just exactly      17 like the good sergeant talked to us about we      18 want to follow up with that with continuing ed,      19 talk about developments in case law,      20 particularly with respect to the issue of      21 proving cases without victim's cooperation. One      22 of our issues now that we're -- that Dan Knight      23 referred to earlier is right of confrontation.      24 And so we do everything we possibly can to build      25 that case whether or not the victim is going to</p>	<p style="text-align: right;">Page 119</p> <p>1 that the police report is going to affect all      2 the different players in the system. We talk      3 about -- much like the standard POST objectives      4 for the basic training, for recruit training, we      5 talk about the charges that are available.      6 We want to make sure and go over some new      7 developments in the charges and offer creative      8 fact patterns so that we can look at the ways      9 that -- for instance, I often refer to Boone      10 County and how they do things in my training      11 because they're doing such cool stuff.</p> <p>12 I hold them out as an example elsewhere      13 in the State where they might not know about      14 this otherwise without this continuing ed, where      15 they might not hear about it. So one of my jobs      16 that I see is to bring that news, that -- to      17 preach the word, so to speak, but anyway. Does      18 that sound bad? No? My boss says no. Okay.      19 Good. I am religious, and I do want to preach      20 the right word.</p> <p>21 So -- and, of course, the importance of      22 their work and the responding to victims      23 supportively and getting them the resources that      24 they need and how much of a difference it can      25 make. So when we talk about what other -- so</p>

<p>1 that's what I do.</p> <p>2       What other training is available in 3 terms of continuing education: of course, Bob 4 Dochler mentioned that Boone County does get out 5 and about in the State, and there are a number 6 of individual programs that are doing their best 7 to provide training on a continuing basis and 8 doing great work. One of the things that I try 9 to do is to network these programs so that there 10 is some cohesion in that training so that we can 11 put our best foot forward and get to every 12 possible jurisdiction, because as you mentioned 13 there are almost 800 law enforcement agencies in 14 the State of Missouri, and we have a big giant 15 state to cover to get that consistency.</p> <p>16       We have national training, of course, 17 that's available. It's, of course, expensive 18 and hard to get people to. We do our best to 19 try to get scholarship information to people so 20 that we can get them out there. I have a 21 statewide annual conference that I've done. 22 We're about to sign a contract for our fifth 23 annual which will be next year in 2011 which is 24 always POST certified, and we have a number -- 25 an increasing number of law enforcement officers</p>	<p style="text-align: right;">Page 122</p> <p>1 our larger communities, yes, but even in smaller 2 communities that are interested in studying 3 these tragedies and learning from them and 4 strengthening our system so that a victim never 5 dies in vain. And that's another 6 multidisciplinary effort that needs to happen 7 here in the State of Missouri so that we can 8 move forward beyond those tragedies.</p> <p>9       We also know that training is 10 perishable. It needs to be reinforced 11 constantly and continually. Those who know me 12 and hear me preach know that gentle relentless 13 pressure is one of my mottos. I think that we 14 -- when we are responding to these cases we have 15 to keep up the pressure. We have to have 16 consistent policy enforcement. Part of that 17 consistency is feedback, constant feedback; 18 good, bad and ugly. Honest, direct and 19 respectful feedback where we work with each 20 other to know what's working and what's not. I 21 think that part of that feedback, though, is to 22 talk about what's working and the gratitude that 23 we have for a job well done.</p> <p>24       So often, especially our first 25 responders, don't get to see the end result.</p>
<p>1 that come to that.</p> <p>2       We -- but we do need to look at what 3 else can help, what else we can do. The special 4 units make such a difference. Where we have the 5 resources they make a huge difference. But 6 they're not everywhere, and there are places 7 where there is no special designated person, and 8 I think it helps to have a designated person; in 9 a large or small jurisdiction to have somebody 10 whose job it is to know about this stuff. To 11 get the training, to foster that teamwork. I 12 have seen so many instances where one motivated 13 person in a community, large or small, can 14 really, literally change the world and make such 15 a huge difference.</p> <p>16       In terms of fostering teamwork, of 17 course, I appreciate the work very much, I can't 18 say that enough, of this panel, but I also think 19 that an ongoing multidisciplinary statewide 20 commission would help with the issues that we're 21 talking about here. We've also mentioned, I 22 don't think today yet, but in St. Louis, 23 enabling legislation for fatality reviews. We 24 do not have any enabling legislation here in the 25 State of Missouri, and we have several groups in</p>	<p style="text-align: right;">Page 123</p> <p>1 They don't get to hear about the lives that 2 they've saved or -- they're just called out to 3 the next case or, you know, the next time it 4 happens again in the same family, and they don't 5 get to see the children that grow up to be 6 prosecutors and law enforcement officers instead 7 of victims and prisoners, and that's important. 8 I think that's important that we have a system 9 of recognition here in the State of Missouri to 10 allow -- to recognize those officers and the 11 work that they do.</p> <p>12       Before I finish off I have a story that 13 I like to share often in my trainings that a law 14 enforcement officer shared with me about a case 15 that he went to early in his career. It was a 16 domestic call, and it was in a remote area, and 17 he was a one-man car as most of our officers 18 are. He -- it was mom and dad and a 19 five-year-old girl on the scene. Mom and dad -- 20 very volatile scene. He couldn't get dad calmed 21 down, and he decided that he was going to take 22 dad back to the station before he came back and 23 completed his investigation. And he said as he 24 drove off he saw momma and the little girl 25 holding momma's hand in the -- there was a</p>

<p>1 picture window in the front of this house --      2 standing in the picture window, and he couldn't      3 read them. Their faces were like this. He      4 said, I don't know what I'm coming back to.      5 When he got back the little girl had drawn him a      6 picture, and it was a picture of him driving her      7 dad away in the patrol car and it said, thank      8 you. And he talks about that. I've met him a      9 couple times now. It's that kind of motivation      10 that we need to keep up in these cases, and      11 that's how we're going to get good consistent      12 response.</p> <p>13 ATTORNEY GENERAL KOSTER: Thank you,      14 Catherine, for a great presentation and for the      15 work that you do all over the state of Missouri.      16 Questions for Catherine?</p> <p>17 REPRESENTATIVE STILL: I have one.      18 ATTORNEY GENERAL KOSTER:      19 Representative Still?</p> <p>20 REPRESENTATIVE STILL: You were talking      21 about a part of your presentation is about the      22 dominant aggressor. So I guess is it you kind      23 of keep up with psychological studies and      24 warning signs; is that what you're talking      25 about?</p>	<p>Page 126</p> <p>1 of violence. We want to look for that history      2 of threats. We do know that there are in other      3 states, Illinois and Ohio come to mind, mandated      4 risk assessments that happen before somebody is      5 to post bond. The -- so there are risk      6 assessment tools and locality assessment tools      7 that look at, for instance, stalking, prior      8 sexual assault, threats to kill. Those are all      9 indications of big danger in a family.</p> <p>10 ATTORNEY GENERAL KOSTER: What is your      11 recommendation in terms of continuing education,      12 number of hours, say, for a three-year period      13 which is how the system is set up now? I mean,      14 from -- if you're thinking -- if you were in a      15 legislative position what's the number that you      16 would recommend?</p> <p>17 MS. VANNIER: I would say at least four      18 hours a year. I would almost like to see -- I      19 know Boone County had a program for a while      20 where they were training a full day every year.      21 And, you know, you see these phenomenal      22 investigations that come out of Boone County and      23 you think a day every year they talk about this      24 stuff and remind themselves of what needs to be      25 done, and that's great.</p>
<p>1 MS. VANNIER: Absolutely. Absolutely.      2 Good question. Yeah. We have -- it's a very      3 nuance determination. Bob mentioned the role      4 playing that he does in the academy. That's a      5 perfect example because it can be very hard for      6 law enforcement to sort out. You know, they      7 often arrive on scene and everybody is screaming      8 at each other, and they have to figure out      9 what's really going on. So looking for that      10 imbalance of power and control that -- where one      11 party is in control of the other, looking for      12 ways to determine who's telling the truth and      13 who's not. Looking for motivations where a      14 victim might even not be completely honest      15 because she's got her own safety and her      16 children's safety to consider after law      17 enforcement leaves that night.</p> <p>18 REPRESENTATIVE STILL: Are there      19 certain crimes or previous crimes that are      20 indicators or --</p> <p>21 MS. VANNIER: Well, I mean, certainly      22 the law says we have to look at the history of      23 domestic violence in a relationship in order to      24 determine who is the dominant aggressor. The --      25 so absolutely we want to look for that history</p>	<p>Page 127</p> <p>1 ATTORNEY GENERAL KOSTER: Detective, do      2 you have an observation on that question; the      3 number of hours per three-year period? It's a      4 48-hour commitment per three-year period now?</p> <p>5 MR. BRUCHSALER: I don't know that a      6 day is enough but a day will do. I don't think      7 that you can do it like racial profiling      8 however. I think it has to involve people like      9 Colleen. People like Catherine have to be      10 involved in that process as to what kind of      11 training. It has to be updated constantly.      12 Things change every day so --</p> <p>13 ATTORNEY GENERAL KOSTER: Let me ask      14 another question that relates to the racial      15 profiling issue that has arisen. One of the      16 benefits of the -- one of the mandates of racial      17 profiling which is why it is sometimes -- you      18 know, it is a bureaucratic challenge for some      19 agencies. But what we're doing is we're      20 mandating that certain data points that we      21 ordinarily wouldn't turn over to the Highway --      22 that wouldn't be accumulated by the Highway      23 Patrol, if the technical -- the bureau of      24 statistics. I'm missing the name right now, but      25 their statistical bureau that puts together the</p>

<p>1 statewide reports. We collect more data on 2 racial profiling than we do on burglaries, for 3 example.</p> <p>4 Are there data points specific to 5 domestic violence that would be valuable on a 6 statewide level to collect but we are not 7 collecting now?</p> <p>8 MR. BRUCHSALER: I think for me it's an 9 evidentiary issue. What are you doing as far as 10 collecting evidence? What are you doing to make 11 the best case possible to bring to court to get 12 a conviction? So anything conviction related 13 would be ideal.</p> <p>14 ATTORNEY GENERAL KOSTER: And I'm not 15 talking about data points that -- in terms of 16 making a specific case, but in terms of looking 17 at the issue and understanding the issue as a 18 statewide phenomena.</p> <p>19 Are there data points, Catherine, in 20 your mind that -- looking at it from a statewide 21 perspective that should be considered by the 22 Highway Patrol?</p> <p>23 MS. VANNIER: Absolutely. I think that 24 right now it's -- from my understanding of how 25 the data is collected, that there's a lot of</p>	<p style="text-align: right;">Page 130</p> <p>1 ATTORNEY GENERAL KOSTER: If you have 2 -- in the coming days if you have more time to 3 think about that question and respond to it 4 maybe with a supplemental memo to Joan, that 5 would be great.</p> <p>6 MS. VANNIER: Great. Thank you.</p> <p>7 ATTORNEY GENERAL KOSTER: Senator? 8 Anybody else have any questions? If that is the 9 case, we've been going for the full morning. 10 Why don't we take, let's see, about a 30-minute 11 lunch?</p> <p>12 MS. GUMMELS: 12:45.</p> <p>13 ATTORNEY GENERAL KOSTER: 12:45 14 reconvene. Okay. Thank you. We look forward 15 to starting up at 12:45.</p> <p>16 (Thereupon, the proceeding was held in 17 temporary recess.)</p> <p>18 ATTORNEY GENERAL KOSTER: People will 19 begin filtering back, but we'll dive in here to 20 stay on schedule so that we can finish up by 21 three o'clock. The next presentation is from 22 Greg Linhares who I've known for quite some time 23 from the State Court Administrator's Office to 24 talk about responsibilities related to domestic 25 violence that face the court clerks.</p>
<p>1 subjectivity to the way the data is collected. 2 So that the answer when you look at any given 3 case is it depends on whether that's going to be 4 reported. I think that we need to broaden our 5 definition of how we track homicides; domestic 6 violence related homicides. Absolutely.</p> <p>7 I think it's significant that even in 8 our court system right now we don't have a way 9 to track the number of criminal cases filed 10 every year that are domestic violence related. 11 We have in our prosecutor case management system 12 a way to mark our cases as domestic violence 13 related, but we don't have that in our court 14 system right now.</p> <p>15 So quite literally I've worked with 16 OSCA's technical people in the past to look at 17 the number of domestic assault third charges 18 filed each year, but that doesn't give us an 19 indication of the number of cases filed. I 20 think that if we could have more -- less 21 subjectivity in the reporting and more 22 objectivity, more clear standards, concise 23 definitions on what counts as defense domestic 24 violence, that is, again, well-trained on, that 25 we could do a great job. Absolutely.</p>	<p style="text-align: right;">Page 131</p> <p>1 With Betsy's return to the room it just 2 reminds me that there are two things that I want 3 to say for the record before we get going. One 4 is that the minimum statewide training for peace 5 officers in Missouri now is 640 hours. It is 6 not the 440 that is used to be. It's been upped 7 to 640. And the recognition of the point that 8 if we are thinking seriously about increasing 9 continuing education requirements for police 10 officers that we should give equal consideration 11 for continuing education for judges and 12 prosecutors as well who are an equal part of 13 this system. I think there is a tendency, I 14 think, sometimes in Jefferson City to place new 15 continuing education restrictions on law 16 enforcement personnel and forget that there are 17 two other legs of that effort; prosecutors and 18 judges that are equally as important.</p> <p>19 Greg, the floor is yours.</p> <p>20 TESTIMONY</p> <p>21 BY MR. LINHARES:</p> <p>22 Thank you, Attorney General Koster and 23 members of the panel. I appreciate the 24 opportunity to come talk to you today. I notice 25 that you mentioned training, and I just want to</p>

<p>1 echo the importance of training from the      2 perspective of the courts as well. That's a      3 critical piece that we are going to continue to      4 have to engage in different ways and try to find      5 creative ways to train, new ways to train, and      6 train in an ongoing fashion as Colleen was      7 pointing out earlier.</p> <p>8 I think we do a decent job at least of      9 informing people of the requirements of their      10 job with regard to domestic violence, but as      11 clerks become used to dealing with their jobs on      12 a daily basis and you see an increasing number      13 of domestic violence filings every year, we need      14 to help clerks understand and differentiate      15 between types of tasks that are involved with      16 different types of domestic violence, be it      17 stalking or traditional, if you will, domestic      18 violence, and how to handle those different      19 types of cases and differentiate the ways in      20 which they ought to be treated.</p> <p>21 I think the clerks intend to speak      22 about that directly as well. Perhaps in Kansas      23 City. I know they had an interest in doing      24 that, and I would encourage the panel to have an      25 opportunity to speak directly with a member of</p>	<p>Page 134</p> <p>1 somewhere like 11 or 12-percent increase.      2 Child orders of protection went from 8,171 to      3 9,913. So that's about a 20-percent increase.      4 We do not see the same increase on the      5 criminal side in terms of the violations of      6 orders of protection charges. We had 2,433 in      7 fiscal 2007, and in fiscal 2009 we have 2,079.      8 But those are statistics strictly related to      9 those felonies and misdemeanors associated with      10 violations of orders of protection. So there's      11 a whole series of cases that's not included      12 there when you're talking about domestic assault      13 and what have you. So there is some need, I      14 think, for clarification when clerks are      15 entering data. And that's maybe something that      16 could be addressed via statute or -- somewhat      17 through training but I think also through      18 statute.</p> <p>19 In terms of federal reporting to NICS,      20 the federal government would like you to report      21 any instance where there is a domestic piece or      22 involvement, but if there's not a necessity in      23 the case as charged by the prosecutor to prove      24 up a domestic relationship of any kind, that may      25 not appear on the record. So there's a data gap</p>
<p>1 that association at the next meeting. I think      2 that's happening. I think that would be      3 educational. I think they would do probably a      4 better job explaining that then I would.      5 I will talk somewhat about the      6 responsibilities of court clerks but also about      7 just the responsibilities of the administration      8 in general and perhaps provide some data that      9 has been talked about in the morning session and      10 clarify some of those points.      11 In calendar years 2007 to 2010 I can      12 tell you that we are seeing definitely a notable      13 increase in violence. And that's going on      14 nationwide. And I think it is probably somewhat      15 related, if you look at data in past recessions      16 and increases in filings in those periods of      17 time, to the recession.      18 We noticed that in FY 2007 we had      19 38,897 adult protection ex parte orders filed.      20 That would be ex parte in full. Well, those ex      21 parte would then be recognized as full at the      22 end. So that's total filings just for      23 clarification. then by FY 2010, which is the      24 year that just completed in July, we had 43,921      25 adult protection orders. So you'll see that's</p>	<p>Page 135</p> <p>1 there between what actually happened and what's      2 on the record as having happened in terms of      3 NICS reporting. And I think somewhere in this      4 process we would need to address that issue in      5 some form. I don't have an answer for you, but      6 I do have a question there that needs to be      7 addressed at some point.      8 I also just want to thank you generally      9 for convening this. This is a critical issue,      10 something that I've been educated a lot through      11 -- by Ms. Coble herself and just through my      12 experiences in dealing with omnibus bills with      13 her over the years which is always fun,      14 particularly the second week in May. But it is      15 also something that's being recognized by the      16 National Center for State Courts. They are      17 convening a domestic violence summit in December      18 with all the court administrators throughout the      19 country from a grant from the Department of      20 Justice where they're asking to assemble teams      21 of court administrators, Department of Public      22 Safety representatives as a lead funding agency,      23 and also judges that are on the ground. And I      24 know Judge Burton spoke to you in St.      25 Louis. He'll be attending that conference with</p>

<p style="text-align: right;">Page 138</p> <p>1 me along with Andrea Spillars from Department of      2 Public Safety and Mark Peoples who is the fund      3 -- the grant administrator for the Department of      4 Public Safety. And so I look forward to the      5 opportunity to work with them on how we can      6 maximize our efforts in increasing funding for      7 domestic violence in Missouri and some best      8 practices on how we use that money.</p> <p>9 You may be aware that the STOP grants      10 that Colleen referred to do have a 5-percent      11 set-aside for court projects related to STOP      12 grant activities. That would be something we      13 could use for training. In the past we haven't      14 always received that, but I think Public Safety      15 is willing to work with us to do that, but we      16 just kind of need a comprehensive plan. I think      17 it's important that we -- and Colleen has      18 described for you that she's achieved these      19 funding sources kind of like you would -- like a      20 stream of water would achieve; if there's an      21 obstacle, you go this direction and then you      22 come back, whichever way gets you down the      23 stream, which is what she's had to do over the      24 years as an advocate.</p> <p>25 I think having an opportunity like this</p>	<p style="text-align: right;">Page 140</p> <p>1 things that relate to the judicial process that      2 are going to be relevant for them to use. So      3 that's one of our efforts currently right now.      4 Why is training so important? Well, I      5 think Ms. Vannier was talking about that; you      6 want to keep everything as evidence based as      7 possible. And how to deal with those dual      8 filing cases particularly is an issue the clerks      9 would speak to you about, and I expect will talk      10 to you more about in Kansas City. That refers      11 to the cases of the races to the courthouse and      12 how do judges handle that issue. What processes      13 and procedures are in place for judges to      14 identify true victims and be able to identify      15 that and manage their cases properly and just      16 encourage parties to do that the right way.</p> <p>17 ATTORNEY GENERAL KOSTER: That is where      18 two parties are asking for --</p> <p>19 MR. LINHARES: Yes. You'll see that in      20 the civil marina much more. And you notice by      21 my statistics we're talking about the increased      22 violence in the civil area; ex parte orders.      23 The person who got there first may not      24 necessarily be the victim, and so that's an      25 ongoing issue that clerks continually deal with.</p>
<p style="text-align: right;">Page 139</p> <p>1 to convene groups can give us a more      2 comprehensive look at how to fund so that we're      3 not crossing paths and maximizing our fundings      4 as greatly as we possibly can. So I would      5 encourage you to look at that as well; to      6 continue the efforts of this in an ongoing      7 fashion.</p> <p>8 One of the funding sources that we have      9 is Domestic Relations Resolution Fund which is a      10 \$1 surcharge in certain counties on domestic      11 violence -- on cases that is then funneled to      12 domestic casework. And one of the things that      13 we're looking at -- we've done training, but in      14 the courts we haven't necessarily sustained that      15 training or memorialized that training. So we      16 are creating a bench book for domestic violence      17 that is going to be published hopefully sometime      18 early next year. Hopefully by having that bench      19 book and continually updating that that will be      20 an on-line resource that every clerk in the      21 State could have at their fingertips, that every      22 judge in the State could have at their      23 fingertips.</p> <p>24 Clerks have procedures in their      25 handbooks but sometimes judges don't have the</p>	<p style="text-align: right;">Page 141</p> <p>1 And sometimes that's referred to as frivolous      2 filings but also it does take -- statistics have      3 shown, the things that I've read, and Colleen      4 can correct me if I'm wrong, it takes on average      5 about eight ex parte filings before you get a      6 full order even in cases where abuse is      7 substantiated. So even if there's a case of      8 substantiated abuse it may take eight times for      9 that substantiated abuse, the party that really      10 was a victim, to actually get a full order, to      11 be willing to go through that process.</p> <p>12 So clerks have to be continually      13 trained and reminded of that because they're      14 going to see this same person filing six, seven,      15 eight times in a row. They may not believe that      16 when they've seen them six, seven or eight      17 times. Oh, that person is filing again. But      18 there actually is a victim there. So I would      19 just ask for you to continue to include clerks      20 in that process and giving them greater tools to      21 differentiate between those types of cases;      22 between the stalking and the true domestic      23 violence. Again, I don't have an answer but I      24 know there's a question there. It's certainly      25 one that the clerks have brought to me very</p>

<p style="text-align: right;">Page 142</p> <p>1 vociferously, and I wanted you to be aware of it 2 as well.</p> <p>3 ATTORNEY GENERAL KOSTER: I don't 4 understand. I -- if there's training to 5 differentiate that is given to the clerks, the 6 clerk's position is not decision making. I 7 mean, they've got to move in one direction and 8 that's to keep the --</p> <p>9 MR. LINHARES: That's right.</p> <p>10 ATTORNEY GENERAL KOSTER: -- filings 11 moving to the judge as quickly as possible.</p> <p>12 MR. LINHARES: I suppose it's probably 13 training that would be more for the judges. 14 You're correct. Yeah. You're definitely right 15 about that.</p> <p>16 MS. COBLE: With the distinction being 17 that the stalking component of the order isn't 18 necessarily dependent upon family or household 19 relationship. So very often the clerks are 20 faced with situations outside the realm of the 21 training for the standard order of protection.</p> <p>22 MR. LINHARES: That's probably more of 23 a law enforcement or judge training. Law 24 enforcement are often tasked with the 25 responsibility of assisting people on which way</p>	<p style="text-align: right;">Page 144</p> <p>1 on who would leave the home? 2 MS. COBLE: It could be very complex, 3 very quickly.</p> <p>4 ATTORNEY GENERAL KOSTER: Okay. I 5 didn't -- it didn't dawn on me that there -- it 6 depended -- it indicates who has got to pack 7 their bags.</p> <p>8 MR. LINHARES: Sure. And it may help 9 with separation action in a different case. So 10 there's lots of implications.</p> <p>11 Again, those are tough issues. I don't 12 know that I've got answers, but I know that that 13 -- with the increased violence we're seeing and 14 less clerks to work on those filings that there 15 is a pressure point there that's occurring.</p> <p>16 That's definitely true.</p> <p>17 I would also want to speak a little bit 18 about the importance of data, and now we have a 19 statewide case management system which has been 20 on-line in every county in the State since 2008.</p> <p>21 It's called GIS, but most of the public would 22 know it as CaseNet because that's the public 23 interface that people see the data through. But 24 we've just now completed an interface from GIS 25 to MULES where both full and ex parte orders are</p>
<p style="text-align: right;">Page 143</p> <p>1 to file; stalking or domestic violence, and the 2 judge is going to have to be dealing with that. 3 So clerks are in the middle on that.</p> <p>4 ATTORNEY GENERAL KOSTER: Colleen, if 5 an abuser and a victim both go and seek orders 6 of protection against one another, let's say the 7 abuser gets there first. Aside from the just, 8 you know, inherent unfairness of that, are there 9 legal problems that that creates after the 10 orders are signed?</p> <p>11 MS. COBLE: It can be difficult for law 12 enforcement to know how to enforce the orders, 13 and if judges' dockets don't allow them to bring 14 those cases up together it again becomes a 15 timing issue; who got the order first. It's a 16 process problem when you've got the two of them 17 going on. What if his was signed and then the 18 judge went into trial and isn't going to be 19 available to sign the ex parte of the second 20 petition? Then you've got -- there's a distinct 21 advantage in time, and one person has already 22 been told to leave the home.</p> <p>23 MR. LINHARES: Yes. It creates 24 advantages for future --</p> <p>25 ATTORNEY GENERAL KOSTER: So it depends</p>	<p style="text-align: right;">Page 145</p> <p>1 transmitted to MULES. And so continuing to 2 update that as MULES would update their system 3 or as we would update our system where we would 4 want to work with, for example, the prosecutors 5 in their interfaces to continue to focus on 6 that. Data interfaces are not direct services 7 and they don't -- they're not -- in many ways 8 they don't feel as important as the work that 9 your caseworkers are doing because you're not 10 dealing with a victim directly, but without that 11 information nobody can apply for the grants and 12 get the money to do the things they need to do. 13 So there is a need there for that, and my office 14 is certainly involved in making sure that those 15 efforts go forward.</p> <p>16 Another issue I want to bring up that 17 I'm not sure -- it may have been brought up in 18 St. Louis, but I don't know if I've heard it 19 today. It's the whole issue of the Lautenberg 20 Amendment and the differentiation between 21 Missouri statutes vis-a-vis Lautenberg and most 22 states. I think Missouri -- and Colleen will 23 know this off the top of her head. How many 24 states are left?</p> <p>25 MS. COBLE: Missouri, South Carolina</p>

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1 and Georgia were -- the domestic violence gun  
 2 law, federal.  
 3 MR. LINHARES: There's a federal  
 4 domestic violence gun law that prohibits -- I  
 5 checked into this this morning -- purchase or  
 6 transfer, which is the only things that the  
 7 federal government can involve itself in. They  
 8 can't necessarily deal with possession directly.  
 9 That's a state law enforcement issue. But  
 10 purchase or transfer of a weapon to anyone who  
 11 has been convicted of a misdemeanor crime of  
 12 domestic violence is prohibited under federal  
 13 law but is allowed under Missouri state law.

14 There's three states that still have  
 15 that on the books, and Missouri is one of them.  
 16 Obviously, that's a hot political issue, and  
 17 that's probably why it hasn't happened in  
 18 Missouri. But the implication, as far as the  
 19 efforts that we're talking about and data  
 20 sharing and all these kinds of things, and  
 21 grants, is that if the Feds were to come in  
 22 through the Department of Justice and  
 23 investigate Missouri's compliance with the  
 24 Lautenberg Amendment, there could be a  
 25 potentiality that federal funds would be at

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1 told not to tell people how to file. And that's  
 2 -- that's -- they're doing their job, but it's  
 3 not good -- necessarily doesn't seem like good  
 4 customer service for public service, but then  
 5 again, they're attorneys and that's the  
 6 attorney's job to assist people with how to  
 7 file.  
 8 The clerk is not in the position of an  
 9 advocate. They're in the position of  
 10 administering the case. So a lot of times  
 11 people will come to court in that position, and  
 12 obviously that's got to be a challenge for the  
 13 victim. You know, the victim is there and  
 14 they're scared. They don't know what to do.  
 15 Then they get there and the clerk can't help  
 16 them. So there's a justice gap issue there at  
 17 the courthouse as well. Some counties have  
 18 resources to address that. I know that St.  
 19 Louis County has an ombudsman-type position, and  
 20 Boone County may have something similar. I  
 21 don't know. But there are very few counties  
 22 that have the capability to address that issue  
 23 effectively. That's another thing that I've  
 24 noticed since doing this.  
 25 ATTORNEY GENERAL KOSTER: Greg, I'm not

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1 risk. And that would be the tipping point where  
 2 Missouri would have to as a state address  
 3 whether or not they -- and I don't know how you  
 4 would handle this, again, but as an  
 5 administrator these are issues that I see.

6 Dealing with the issue of preserving  
 7 the funding for these areas or dealing with the  
 8 issue of restricting gun rights as it may be  
 9 perceived by many which is why it hasn't been  
 10 done at this point. So that's a pressure point  
 11 that's out there and something that I would  
 12 encourage this group to address as well. And  
 13 that interacts through MULES and through our  
 14 system to the NICS database and all that. It  
 15 goes along with that.

16 I would agree with a lot of what Dan  
 17 Knight was saying this morning about any efforts  
 18 we can engage in to provide less burden on the  
 19 victim, more support in courthouses for  
 20 assisting victims with knowing how to file. And  
 21 that's done a lot I know at the shelter level,  
 22 but some people who wouldn't go to a shelter may  
 23 go straight to the courthouse. And clerks --  
 24 this is another challenge for clerks because  
 25 they don't -- they're not attorneys, and they're

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1 as familiar as I should be on the clerk issue  
 2 with regard to providing assistance to those who  
 3 want to file.  
 4 MR. LINHARES: Yes.  
 5 ATTORNEY GENERAL KOSTER: Will you  
 6 flush that out? Is that -- that's not a  
 7 statute, is it? I mean, is that an internal  
 8 policy, and how aggressively is that policy  
 9 pursued? Is it local policy or is it state  
 10 policy?

11 MR. LINHARES: It's more of an issue  
 12 that has been raised in the past by attorneys.  
 13 Maybe if you're an attorney for a respondent you  
 14 may raise the issue that that clerk assisted the  
 15 victim with the filing and that may cause the  
 16 case to be compromised.

17 ATTORNEY GENERAL KOSTER: So is the  
 18 recommend -- is it a recommendation from state  
 19 court administrators to the clerks or how is  
 20 that policy --

21 MR. LINHARES: How has that been put  
 22 out?

23 ATTORNEY GENERAL KOSTER: Is it policy  
 24 and how is it transmitted, if it is?

25 MR. LINHARES: As with many things it

<p>1 -- all law is local in a lot of ways. I      2 wouldn't know that even if there was an OSCA      3 policy on it that that would be the gospel. I      4 think really this is an issue that is driven by      5 presiding judges throughout the State and driven      6 by a local practice. But traditionally the      7 clerks being clerks and the judges being      8 attorneys, the clerk will defer if there's an      9 issue of how far they can go in assisting a      10 client. They will bring that to a judge and say      11 this person wants me to tell them should I file      12 this as a stalking or should I file this as a --      13 ATTORNEY GENERAL KOSTER: Oh. I see.      14 So it's more then a matter of how to fill out a      15 --      16 MR. LINHARES: Oh, yeah. They want you      17 -- they will -- I mean, somebody that comes in,      18 they'll try to get as much help as they can as      19 you would expect. And so --      20 ATTORNEY GENERAL KOSTER: It's when you      21 get to a legal distinction.      22 MR. LINHARES: When you get to a legal      23 distinction they view that as unauthorized      24 practice of law, or it could be perceived that      25 way and are often reticent to address that.</p>	<p>Page 150</p> <p>1 domestic violence training, per se. There --      2 there pretty much is in practice, though.      3 MR. LAMB: OSCA provides it. I      4 understand that.      5 MR. LINHARES: We do that. And we      6 continue to look for ways to make that lively.      7 And Colleen has been a trainer for us many      8 times.      9 MS. COBLE: It started in 1990 with the      10 first official start of what they continue to      11 incorporate as their yearly ongoing --      12 MR. LAMB: Head of the judicial      13 college.      14 MR. LINHARES: This would be clerk      15 college. Well, judicial college in the family      16 law section. Family law judges will stay an      17 extra day at judicial college. There's a      18 specific section that I give to family law that      19 day. And a lot of this is -- that type of      20 training is done there. There's also something      21 done at your initial judicial training when you      22 come as a new judge. New judge orientation will      23 have a piece in there about this, because      24 typically new judges are going to get this line      25 of work as you can imagine.</p>
<p>1 MS. COBLE: And then if I could, in the      2 training with clerks it's -- we recommend that      3 they realize that we're not asking them from the      4 advocacy community to be advocates, but given      5 the fact that half of Missouri counties don't      6 have a program within their borders, there are      7 clerks in these jurisdictions who aren't going      8 to be able to follow the best practice of      9 picking up the phone and having the advocate      10 come to the courthouse to help.      11 MR. LINHARES: That's the best way to      12 handle it.      13 MR. COBLE: That is the most effective      14 way to do it, but in so many places the clerks      15 are the -- they're the frontline staff.      16 MR. LINHARES: They really are.      17 They're our frontline. There's no doubt.      18 MR. LAMB: Greg, certainly circuit      19 clerks are elected officials.      20 MR. LINHARES: Yes.      21 MR. LAMB: Is there any type of      22 mandatory domestic violence related training for      23 circuit clerks as has been discussed on POST      24 certification?      25 MR. LINHARES: There's no mandatory</p>	<p>Page 151</p> <p>1 I've experienced that when I was in the      2 military as well. I was a legal assistance      3 attorney, and the new guy always got legal      4 assistance. The cool guys got to go to criminal      5 law. No offense Attorney General. But they      6 want the cool guys -- everybody wants to do the      7 criminal stuff. And attorneys love it, you      8 know, but so -- and I understand, but this stuff      9 is done typically by your newer associate      10 circuit judge. So there's even a more enhanced      11 need for training.      12 REPRESENTATIVE STILL: I have a      13 question.      14 ATTORNEY GENERAL KOSTER: Go ahead.      15 We're pretty -- we're not running like a      16 committee hearing so you don't have to -- you      17 just jump in.      18 REPRESENTATIVE STILL: You don't have      19 to ask permission?      20 ATTORNEY GENERAL KOSTER: Exactly.      21 REPRESENTATIVE STILL: And it's a good      22 thing because they'd never give me permission.      23 Did I understand you to say that there      24 are certain federal recording requirements      25 related to domestic violence?</p>

<p>1 MR. LINHARES: Yes.</p> <p>2 REPRESENTATIVE STILL: That we don't</p> <p>3 do? Or that we do federally but not for state?</p> <p>4 MR. LINHARES: The State statute</p> <p>5 doesn't authorize your weapons to be taken in</p> <p>6 those circumstances in Missouri. Misdemeanor</p> <p>7 crime of domestic violence will not authorize</p> <p>8 you -- doesn't -- Missouri law does not</p> <p>9 authorize that weapon to be taken in that</p> <p>10 circumstance whereas at the federal level it</p> <p>11 does.</p> <p>12 REPRESENTATIVE STILL: Now, is that</p> <p>13 what you were talking about or is there</p> <p>14 something different called the Lautenberg</p> <p>15 Amendment?</p> <p>16 MR. LINHARES: That is the Lautenberg</p> <p>17 Amendment. The Lautenberg Amendment is that</p> <p>18 misdemeanor crimes of domestic violence will</p> <p>19 disqualify you from purchase or transfer of a</p> <p>20 weapon.</p> <p>21 REPRESENTATIVE STILL: Okay. And it</p> <p>22 would require a change of statute in Missouri?</p> <p>23 MR. LINHARES: Yes. In Missouri.</p> <p>24 REPRESENTATIVE STILL: That ain't going</p> <p>25 to happen.</p>	<p>Page 154</p> <p>1 REPRESENTATIVE STILL: Prior to your</p> <p>2 discussion on the Lautenberg Amendment you</p> <p>3 talked about there's some clarification when</p> <p>4 clerks are entering data. I guess I understood</p> <p>5 that to mean well, they have to report certain</p> <p>6 things to the Feds.</p> <p>7 MR. LINHARES: Well, yes. That's in</p> <p>8 regard -- that is in regard to the fact that the</p> <p>9 fact pattern -- the Feds want you to be as</p> <p>10 comprehensive with data as possible and</p> <p>11 understandably. But depending on how a case may</p> <p>12 be charged or what is entered into the record,</p> <p>13 it may not be certain whether or not the issue</p> <p>14 was a domestic one or not that would qualify as</p> <p>15 something that should be reported to the Feds.</p> <p>16 If it's an assault, let's -- for</p> <p>17 example, and, you know, there's people here</p> <p>18 better apt to talk about this than I am, but if</p> <p>19 it's charged as an assault but you don't have to</p> <p>20 prove up the domestic relationship then that may</p> <p>21 not be in the record. But if, in fact, it was</p> <p>22 domestic but it doesn't --</p> <p>23 MR. LAMB: Or a domestic that maybe was</p> <p>24 pled to a peace disturbance or an assault third.</p> <p>25 REPRESENTATIVE STILL: But it seems to</p>
<p>1 MR. LINHARES: No. That's why I said</p> <p>2 it wouldn't happen until the Feds investigate us</p> <p>3 and then people have to decide do we want to do</p> <p>4 the bill or the money.</p> <p>5 REPRESENTATIVE STILL: I hope you're</p> <p>6 right. I mean, I certainly would be supportive</p> <p>7 of that.</p> <p>8 MR. LINHARES: I think it would only</p> <p>9 happen if people were able to say my hands are</p> <p>10 tied. They're coming for us, and we're going to</p> <p>11 lose a bunch of money if we don't do it.</p> <p>12 REPRESENTATIVE STILL: How much money</p> <p>13 would be at risk?</p> <p>14 MR. LINHARES: Billions.</p> <p>15 Multi-millions. No, not billions. I'm sorry.</p> <p>16 Multi-millions certainly.</p> <p>17 MS. COBLE: Department of Justice</p> <p>18 dollars.</p> <p>19 MR. LINHARES: Department of Justice</p> <p>20 dollars. Basically, anything that comes into</p> <p>21 Public Safety from the Feds, anything that comes</p> <p>22 to the courts from the Feds, anything that comes</p> <p>23 to Mr. Lamb from the Feds, or the Attorney</p> <p>24 General's office, all of those funds would be at</p> <p>25 risk.</p>	<p>Page 155</p> <p>1 me like if you're having to report it anyway to</p> <p>2 the Feds -- am I missing something here?</p> <p>3 MR. LINHARES: Well, we only report</p> <p>4 what the disposition is. So maybe the fact</p> <p>5 pattern says yes but disposition doesn't show</p> <p>6 it. So we're not -- so in other words, the data</p> <p>7 that the Feds would then get and that we would</p> <p>8 use to apply for grants and what have you, or</p> <p>9 for a case reporting statistics, would not show</p> <p>10 enough domestic cases when, in fact, there's</p> <p>11 more than we're actually showing.</p> <p>12 REPRESENTATIVE STILL: Thank you.</p> <p>13 MR. LINHARES: I just wanted to briefly</p> <p>14 touch on a couple other issues that the clerks</p> <p>15 have raised as well. This one was brought up</p> <p>16 earlier regarding bad addresses for respondents</p> <p>17 and how to find people. Again, Jason and I are</p> <p>18 working on a project for criminal and justice</p> <p>19 information sharing, and I think this keeps</p> <p>20 cropping up everywhere I look. Having a</p> <p>21 comprehensive plan throughout the State as to</p> <p>22 who's got the right data and who this individual</p> <p>23 is; uniform state identification, if you will,</p> <p>24 in some shape -- way, shape or form is going to</p> <p>25 need to be done.</p>

<p>1      Otherwise, you know, when you've got      2 that respondent and you can't serve that      3 respondent, that becomes an issue. And so we      4 need to make sure we have the right address for      5 those respondents when cases are coming to the      6 courts because that's a frustration for the      7 clerks. It keeps filing -- keeps coming back      8 and the clerk keeps having to deal with it.      9 That's an issue.</p> <p>10     I discussed the issue -- most of the      11 other issues I think I've already talked about.      12 The other issue that I would bring up is      13 privacy; the ongoing needs for privacy. Last      14 year we passed a piece of legislation to keep      15 some more of the personal information in the      16 confidential case sheet and not in the public      17 record regarding personal information; bank      18 information, Social Security numbers and      19 information in that form.</p> <p>20     I don't know if there's any other      21 places like that that we haven't found yet, but      22 if there are we need to continue to keep the      23 focus on privacy, particularly in regard to the      24 victim and where the victim is, and continue to      25 train and make sure that our laws are in place</p>	<p style="text-align: right;">Page 158</p> <p>1 quickly trying to search my memory to remember      2 what it is. It had -- it's a very backwards      3 seeming kind of thing. I'm trying to remember      4 it. I'm sure as soon as I sit down I'll      5 remember exactly what it is. But in order to      6 qualify for federal funding for data sharing to      7 NICS, I think it has to do with some kind of      8 adjudication of incapacity. And I'm thinking      9 about it, and I think I've got it now.</p> <p>10     If a person is judged incapacitated and      11 their weapons are removed from them due to that      12 adjudication, being incapacitated, there has to      13 be a process whereby someone can restore their      14 rights; restoration of rights piece. And I      15 think that was passed at the federal level.      16 Joan and I drafted this up in the mezzanine of      17 the Senate, the floor of the -- we won't talk      18 about that, though. No.</p> <p>19     But we've -- this was a piece that I --      20 well, Mr. Bellamy from the Attorney General's      21 office was involved. I'm being a little -- it      22 wasn't quite that bad. It's been -- we've      23 talked with the NRA about this, with members of      24 the Attorney General's office, clerks have been      25 involved. Basically -- and NICS has kind of put</p>
<p>1      that keep the identification of the victim and      2 where that victim is located secret if it needs      3 to be. And also we want to encourage to      4 continue not just funding court efforts but, you      5 know, probation officers, increase probation      6 officer funding for keeping track of domestic      7 violence offenders. That's critical. All of      8 those things will help judges and clerks do      9 their job too. So it's a comprehensive effort.</p> <p>10     I'd be happy to answer any other      11 questions you have.</p> <p>12     ATTORNEY GENERAL KOSTER: Very good.      13 We're right on time. We've been asking      14 questions as we've been going along. Does      15 anybody have anything final?</p> <p>16     MS. COBLE: Just to -- I know that      17 there have been some changes that the court      18 administrators around the country are having to      19 report differently to NICS, the different      20 federal systems. Aren't there some new      21 requirements of state court administrators?</p> <p>22     MR. LINHARES: Yes. In terms of the --      23 yes. Now, this is regarding the piece of      24 legislation that we tried to pass two years ago.      25 That has to do -- and I'm trying to -- I'm</p>	<p style="text-align: right;">Page 159</p> <p>1 out some greater guidance on this in the last      2 year or two. They want you to have a process to      3 restore rights to persons that were previously      4 judged mentally incompetent; to appeal to the      5 Court to restore their rights to possess      6 firearms. And if you don't have that in place      7 then you may be subject to losing additional      8 federal funding or not being able to draw down      9 federal funding to increase your capacity to      10 report data to the NICS system. That's it in a      11 nutshell.</p> <p>12     MS. COBLE: Well, and there was some      13 concern that they were going to broaden some of      14 those to address the domestic violence guns      15 issue was the thread I was going down.</p> <p>16     MR. LINHARES: Yes. There was --      17 people want to say well, then let's get rid of      18 -- you know, it's not let -- what do you want to      19 do with felonies now or -- there was some      20 concern that that could be a vehicle through      21 which other things might be driven, yes. And it      22 seems counterintuitive but there already is in      23 place a way to take away those weapons through      24 that judgement of incapacity. So I think this      25 was passed at the behest of some gun rights</p>

<p>1 advocates at the federal level and put in well, 2 we want that restoration of rights in order to 3 get this -- all this information on people that 4 own guns.</p> <p>5 ATTORNEY GENERAL KOSTER: Greg, thank 6 you very much. I appreciate the work you're 7 doing and your testimony here today. It's very 8 helpful.</p> <p>9 Judge Debbie Daniels former alumni of 10 the Attorney General's office is next up. Come 11 on up, Judge.</p> <p>12 Judge Daniels is Associate Circuit 13 Judge here in Boone County and handles the 14 domestic violence docket here in the County.</p> <p>15 JUDGE DANIELS: On the criminal side.</p> <p>16 ATTORNEY GENERAL KOSTER: On the 17 criminal side, and is here to give us a judicial 18 perspective on criminal domestic violence cases. 19 Welcome. It's good to see you.</p> <p>20 TESTIMONY</p> <p>21 BY JUDGE DANIELS:</p> <p>22 Thank you. And it may be the first 23 time this year that I was identified as being 24 one of the cool people. So I'm glad that I'm 25 here on the criminal side.</p>	<p>Page 162</p> <p>1 1300 cases a year, that either are filed as 2 domestic violence cases in the criminal side or 3 have a component of domestic violence associated 4 with it. So you would see cases that are filed 5 as a burglary to really grow out of a domestic 6 violence situation.</p> <p>7 And we are very blessed in Boone County 8 that we have what is called a DOVE unit, and I 9 understand that Dan Knight may have spoken to 10 you about the DOVE unit. We are blessed with 11 people who are actively pursuing in a 12 not-for-profit capability, trying to address 13 domestic violence. But it was hard to get those 14 people together.</p> <p>15 Boone County is a First Class County. 16 We have on any given day perhaps five or six 17 courtrooms going where if you are a victim of 18 domestic violence or a prosecutor or a defense 19 attorney assigned to a domestic violence case 20 that you need to be and you need to resolve 21 that.</p> <p>22 What we did in 2008 in Boone County is 23 all of those cases come to one judge. We have 24 worked with the prosecutor's office to get the 25 assistant prosecuting attorney handling the case</p>
<p>1 Recognizing that we do not have yet an 2 integrated court with regard to the civil side 3 on orders of protection, and the criminal side 4 with regard to someone who is facing criminal 5 penalties for domestic violence. I am here to 6 speak to you about the criminal docket and some 7 of the things that we have done in Boone County 8 without the advantage of legislation or a lot 9 of money to the court system to help address 10 what we perceive to be a very important issue 11 for public safety in Boone County.</p> <p>12 I was very pleased to have the 13 opportunity to speak to you all today. I am 14 sorry that my docket in probate took -- it was 15 already set and so there were just too many 16 cases to move, but I'm hoping that someone will 17 share with me the great ideas that have come out 18 of this process. So thank you for having it.</p> <p>19 When I became an associate circuit 20 judge one of the things that occurred to me was 21 that we had many resources trying to reach the 22 problem of domestic violence in Boone County, 23 and while our numbers are not great I will tell 24 you the prosecutor's office informs the court 25 system that there are 1300 cases a year, roughly</p>	<p>Page 163</p> <p>1 to be in the courtroom at the same time. We 2 have worked with the public defender's office to 3 get the attorney assigned the case in the 4 courtroom at the same time which gives us 5 incredible ability to create what is a very busy 6 circuit. Some of the small town aspects that 7 are positive towards addressing public safety 8 concerns.</p> <p>9 The victim doesn't come in on a law day 10 in Boone County confronted with trying to see 11 where their case is in 11 different divisions. 12 The victim advocates aren't running between many 13 courtrooms trying to decide what's going on, and 14 more importantly there are limited resources on 15 both the criminal defense side and on the State 16 side. And what I find over and over again 17 sitting on the bench is I will say -- someone 18 will come up and they'll say, Judge, we need to 19 continue this case for negotiation, and I will 20 say how long do you need. And the answer I get 21 back is we've been trying to talk to each other 22 but we can't reach each other. Well, if you can 23 get the attorneys there in the course of a 24 docket where you have about 60 cases set, they 25 have time to talk. They can get cases resolved.</p>

<p>1        And so without ever wanting to      2 represent to this panel that someone gave me a      3 magic wand when I got the privilege of wearing a      4 black robe, because I didn't get one of those,      5 what I can say to you is efficiency and moving      6 the docket makes a big difference. It makes a      7 big difference for the victim. It makes a big      8 difference for the public safety concerns of      9 what's being addressed.</p> <p>10      If cases are not moved I do not believe      11 we do the service that we should be doing to the      12 community in which we live. So while typically      13 the judge is always the umpire and not a player,      14 I am here to say to you that one of the things I      15 would encourage is a concerted effort to move      16 domestic violence cases quicker. We do that in      17 Boone County by having a return date on bonds      18 that is much quicker than a normal return date      19 on a bond.</p> <p>20      If you get charged with stealing, get      21 taken into custody, and we have pre-set bonds in      22 Boone County, and you post a surety bond to      23 allow yourself to exit from the Boone County      24 jail, your return date into court on that surety      25 bond is probably going to be three weeks to four</p>	<p>Page 166</p> <p>1        return dates are for that single domestic      2 violence -- the formal domestic violence      3 calendar, right?      4        JUDGE DANIELS: Right. Well, or any      5 criminal docket that -- the return date being      6 the first appearance. The defendant's first      7 appearance is before me on one of those criminal      8 dockets that I'm running Monday through Friday.      9        ATTORNEY GENERAL KOSTER: Okay.      10      JUDGE DANIELS: Once they appear before      11 me on the first time then I set that case on a      12 Tuesday or a Wednesday where I have court people      13 in the courtroom to help.      14      ATTORNEY GENERAL KOSTER: I see.      15      JUDGE DANIELS: And I think the -- I      16 think the expedited return date is an important      17 component to being fair and doing the job that      18 I'm charged with doing. If it is a domestic      19 violence case that the State is going to be able      20 to go forward with, that needs to happen sooner      21 rather than later. If it is a case that the      22 State is not going to make, that decision needs      23 to be made sooner rather than later because of      24 the ramifications to the people who are      25 confronted with bond conditions.</p>
<p>1        weeks before you ever see the judge. For      2 domestic violence cases that return date is 10      3 days. It makes a huge difference. So everyone      4 is seeing the judge quicker.      5        If they do not bond out, they come to      6 my docket, and I have a criminal docket every      7 day except Thursday, and usually I'm in court on      8 something criminal on Thursdays too. They come      9 to my court and I get the process moving.      10      ATTORNEY GENERAL KOSTER: So the      11 domestic violence docket can crop up on any of      12 the four law days that you operate?      13      JUDGE DANIELS: Yes. Mornings or      14 afternoon.      15      ATTORNEY GENERAL KOSTER: So there's      16 not a set domestic violence docket that starts      17 Monday morning at 9 a.m.?      18      JUDGE DANIELS: There is. There is a      19 set domestic violence docket that in addition to      20 that if you are charged with a new domestic      21 violence offense, you're supposed to be coming      22 in to see me as quickly as possible if you're in      23 custody. Within 10 days if you're posting a      24 bond at the sheriff's office.      25      ATTORNEY GENERAL KOSTER: So all the</p>	<p>Page 167</p> <p>1        In Boone County we have as part of the      2 process of setting bond that if you are charged      3 -- if you arrested on domestic assault there is      4 a no-contact provision with the person      5 identified as the victim in the arrest      6 statements. That gets reinforced when that      7 person comes into court. So I think that's a      8 very positive thing that occurs.      9        The remedy in the system today --      10 understanding that there is a legislative push      11 to do something about it. The remedy today is      12 for the State to request that the bond be held      13 insecure under Rule 33.      14      ATTORNEY GENERAL KOSTER: Can I raise a      15 couple of points that came up during the morning      16 hours that have kind of intertwined with a      17 couple of things you just said? The first is      18 the question as to whether or not, I assume, a      19 misdemeanor penalty, a formal misdemeanor, would      20 apply to a violation of the no-contact provision      21 in a domestic violence bond.      22      JUDGE DANIELS: A new charge?      23      ATTORNEY GENERAL KOSTER: A new charge      24 rather than having the only enforcement tool be      25 judicial contempt, that actually a misdemeanor</p>

<p style="text-align: right;">Page 170</p> <p>1 apply under the -- and the thinking is that if      2 there's a no-contact provision in the bond and a      3 deputy sheriff knows that violation of that      4 no-contact position -- of that no-contact      5 provision is itself a separate crime, that a      6 deputy sheriff will be more likely to go enforce      7 that as a state violation rather than as a      8 potential contempt situation.</p> <p>9 JUDGE DANIELS: I would say to you that      10 we are not seeing criminal contempt yet. What I      11 see frequently is that I set a bond on a      12 criminal charge involving domestic violence      13 situations and include in the setting of that      14 bond a no-contact provision. I believe under      15 Rule 33 of the Missouri Rules of Court I have      16 discretion with regard to what bond and what      17 bond conditions I establish with regard to      18 releasing someone from jail. If someone is in      19 violation of what I have set as the bond      20 condition, I do not believe that I need to      21 arraign them. I do not believe I need to      22 establish even an opportunity for them to be      23 heard if I think there is a sufficient risk      24 associated with violation of a condition of bond      25 that I have set.</p>	<p style="text-align: right;">Page 172</p> <p>1 to cut you off.      2 MR. LAMB: Oh, no. I'm sorry. I      3 interrupted you. I would agree that you, sua      4 sponte, would have the ability to enforce your      5 own bond. And nothing about a proposal to      6 criminalize a violation of the judge's bonding      7 condition would take that power away, would it?      8 JUDGE DANIELS: No. And I just -- in      9 whatever legislation, which I would not be      10 qualified to speak to that would come through      11 the different branches of government, I wouldn't      12 want it to get lost in that discussion. The      13 authority that is vested in the Court and the      14 ability of the Court to address immediately      15 safety concerns based upon a bond that, of      16 course, was set.      17 ATTORNEY GENERAL KOSTER: And some of      18 this may differ between the cultures of      19 different circuits. I guess anecdotally you      20 feel that your no-contact provisions in your      21 bonds are being enforced in this circuit?      22 Coming out of the 17th I don't know whether law      23 enforcement thinks about enforcing the provision      24 in a bond with the same intensity that they, you      25 know, pick up on state law violations.</p>
<p style="text-align: right;">Page 171</p> <p>1 Under Rule 33 then what I do if the      2 State makes me aware, I'm not suggesting that I      3 ask -- act as law enforcement. But if the      4 prosecuting attorney's office makes me aware      5 that there has been a violation of a condition      6 of bond that I have set, I set that immediately      7 for hearing. Or if the person is in my      8 courtroom and I believe that there's been a      9 violation, I will hold the original bond      10 insecure and move to enforce that. Which if      11 there is no bond established and a warrant has      12 been issued, that person is taken into custody.      13 ATTORNEY GENERAL KOSTER: Say that last      14 part again. If there is --      15 JUDGE DANIELS: If there is no bond      16 that has been filed to allow the person to be      17 released on the warrant then that person can be      18 immediately taken into custody. If the person      19 is charged with the new offense, I would think      20 that would have to be a bondable case.      21 MR. LAMB: Judge, what would prohibit      22 both from occurring simultaneously, though? You      23 would still have the --      24 JUDGE DANIELS: There wouldn't be      25 anything that would -- I'm sorry. I didn't mean</p>	<p style="text-align: right;">Page 173</p> <p>1 JUDGE DANIELS: And I, again, could not      2 speak to law enforcement in Boone County. I      3 will tell you I take it seriously.      4 ATTORNEY GENERAL KOSTER: Do you feel      5 like word is getting back to you when there's      6 been a --      7 JUDGE DANIELS: Yes. And I don't think      8 that always means that the person gets taken      9 into custody directly to the Boone County Jail.      10 I have people that have no criminal history who      11 are in their 40s and they are charged with      12 domestic violence. If I can separate that      13 person from the person that is subject,      14 sometimes that person can go through and resolve      15 the criminal case without it being a further      16 problem. Or sometimes I find situations      17 anecdotally where the people get along fine      18 until a person is either using a controlled      19 substance or alcohol to excess, and that leads      20 to a situation.      21 I have tools so if that person comes in      22 to see me on a regular court date and the      23 prosecutor says, Judge, we're moving to hold the      24 bond insecure because law enforcement is telling      25 us that there has been contact, I will sometimes</p>

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1 ask the person to take a seat based upon what  
 2 the circumstances are and hook them up to  
 3 electronic monitoring so I know if they're  
 4 getting close to a zone from which they're  
 5 prohibited, hook them up to electronic  
 6 monitoring to continuously evaluate alcohol  
 7 levels or hold the bond insecure, require them  
 8 to go back to the Boone County Jail and post a  
 9 new bond.

10 ATTORNEY GENERAL KOSTER: Second topic.  
 11 What is your sense -- what is your thought on  
 12 pros or cons of a 12-hour hold on a domestic  
 13 violence arrest? And again, I've always been a  
 14 little dubious about the constitutionality of  
 15 these. Some of them are informal around the  
 16 State.

17 JUDGE DANIELS: I would say that the  
 18 Attorney General's Office has great resources  
 19 with regard to the unit that was charged with  
 20 defending writs of habeas corpus, and perhaps  
 21 that unit that addresses responses to filings of  
 22 writs of habeas corpus would be involved there.

23 ATTORNEY GENERAL KOSTER: Thank you.  
 24 Well and subtly stated. I'm sure the redness of  
 25 my face betrays how severely I was just slapped.

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1 JUDGE DANIELS: And I would do that.  
 2 ATTORNEY GENERAL KOSTER: The third  
 3 question is the pros and cons of a mandatory  
 4 check-in. Maybe not a mandatory return on a  
 5 bond but a mandatory check-in after 20 -- after  
 6 36 hours, 48 hours, 72 hours after the initial  
 7 bond is placed on the defendant with the  
 8 sheriff's office probably to address the issue  
 9 of the difficulty in serving that individual  
 10 with a protective order -- obtaining service on  
 11 a protective order.

12 JUDGE DANIELS: I can only speak to my  
 13 -- the way I run my domestic violence court, and  
 14 I say -- I'm always very hesitant to use a  
 15 singular pronoun here because anything involving  
 16 the criminal justice system requires input from  
 17 many, many people, but I'm typically the person  
 18 who is setting the return date. I will tell you  
 19 that if they do not have an attorney at the time  
 20 they make the first appearance, I'm typically  
 21 setting counsel status hearings within three to  
 22 four days. Anybody who wants to find that  
 23 person can find that person in my courtroom in  
 24 three to four days. Sometimes I'm setting them  
 25 within 24 hours.

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1 JUDGE DANIELS: No. No.  
 2 MS. COBLE: In a non-violent, loving  
 3 sort of way.

4 JUDGE DANIELS: That's not to say that  
 5 if a judge is truly looking at Rule 33 with  
 6 regard to potential danger to the identified  
 7 victim, the community, that you cannot as the  
 8 Court in your judicial capacity address what  
 9 would be a problem. And understanding that I'm  
 10 supposed to be here to discuss criminal  
 11 responses I would say to you that I routinely  
 12 get calls in the middle of the night to issue an  
 13 ex parte order of protection, and when I say  
 14 where is the person, they say in the Boone  
 15 County Jail. The person I believe who needs to  
 16 be calling me is the prosecutor's office to say,  
 17 Judge, this is an extenuating circumstance under  
 18 Rule 33 which is the rule of the Missouri  
 19 Supreme Court that gives me the authority to set  
 20 a bond. We believe this typical offense that  
 21 has been charged as a misdemeanor or a typical  
 22 offense where someone has been arrested on a  
 23 misdemeanor needs to carry a much higher bond.

24 ATTORNEY GENERAL KOSTER: And then the  
 25 third question --

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1 Typically in Boone County a court trial  
 2 after that first appearance and an entry of a  
 3 plea of not guilty under the Missouri Supreme  
 4 Court rules is set within five to six weeks.  
 5 I'm setting them within three weeks. I'm  
 6 setting preliminary hearings within three weeks.  
 7 Do I get every single preliminary hearing heard  
 8 within three weeks? No. And there probably  
 9 would have been 25 people running against me for  
 10 office if I had really tried to force all of the  
 11 attorneys to do preliminary hearings within  
 12 three weeks in my division, but certainly  
 13 they're checking in.

14 ATTORNEY GENERAL KOSTER: So if the  
 15 bond is issued on a Friday night, the officer  
 16 will know to write that first arraignment --

17 JUDGE DANIELS: Within 10 days if  
 18 they're posting bond. If they're in custody,  
 19 they're coming to me immediately. We  
 20 differentiate between the in-custody people and  
 21 the out-of-custody people.

22 MR. LAMB: Judge, may I ask? Your  
 23 domestic violence docket, that idea where it  
 24 spans statewide. Do you think the best vehicle  
 25 to accomplish that would be through legislation

<p>1 or through Supreme Court rule?</p> <p>2 JUDGE DANIELS: I'm a big believer in 3 following rules, and so whether it's by statute 4 or whether it's by rule, I think that the 5 experience in Boone County could be incorporated 6 in other counties and lead to very positive 7 results in other counties. Because it's not a 8 plan that requires people to administer it so 9 much as rethinking the system to allow the 10 people who are already players in the system to 11 get together and talk to get resolution.</p> <p>12 I was visiting with Page Bellamy 13 because he had made an effort to try to get a 14 domestic violence docket court where he was, and 15 I said to him, sometimes I've very envious of 16 the drug court statutes because it recognizes 17 the problem of drug courts, and it statutorily 18 says this is a good way to address this. And so 19 to the extent that you have a statutory 20 recognition of the importance of an efficient 21 and consolidated effort to address domestic 22 violence and you create in the court system, 23 incorporated with the Supreme Court rule, an 24 ability of why this is a very important thing, I 25 think it gives those of us who are out here in</p>	<p>Page 178</p> <p>1 change? I mean, as a practical matter. 2 JUDGE DANIELS: Certainly, the time 3 standards are suggestions from the Missouri 4 Supreme Court about what the policy should be. 5 And Mr. Linhares is probably in a better 6 position to -- I'm just speaking ideally from a 7 person on the ground floor, so to speak, what 8 would be helpful. But to the extent that the 9 Missouri Supreme Court crafted out an exception 10 for domestic violence cases and said that all 11 domestic violence cases should be resolved in 12 three months -- I'm going to contested 13 preliminary hearings on some cases in six weeks 14 on domestic violence.</p> <p>15 ATTORNEY GENERAL KOSTER: And how -- 16 because I have never been a judge I don't know 17 how idealistically I should take that last 18 statement. Is that -- are you putting that 19 forward as something that the Supreme Court 20 would seriously consider and that that is a 21 practical possibility or is that farther out 22 along the idealistic continuum?</p> <p>23 JUDGE DANIELS: I'm saying if the 24 Missouri Supreme Court, understanding that we 25 have a public defender crises, we have a crises</p>
<p>1 the system trying to work through that some 2 parameters that would be very helpful.</p> <p>3 ATTORNEY GENERAL KOSTER: What do you 4 think is the mechanism for -- in a circuit that 5 doesn't prioritize domestic violence the same 6 way that this circuit does, an arraignment -- a 7 post bond arraignment for someone who has bonded 8 out would normally be something along the lines 9 of 30 days?</p> <p>10 JUDGE DANIELS: I think sometimes it's 11 much longer.</p> <p>12 ATTORNEY GENERAL KOSTER: And so what 13 is the mechanism? Do you go to the Supreme 14 Court -- what is the mechanism -- I'm also 15 looking at Greg to see if he is -- what is the 16 mechanism for getting that accomplished?</p> <p>17 JUDGE DANIELS: You change the Missouri 18 Supreme Court operating rule on time standards.</p> <p>19 ATTORNEY GENERAL KOSTER: And there is 20 no differentiation between domestic violence and 21 other crimes now?</p> <p>22 JUDGE DANIELS: Right now there's not.</p> <p>23 ATTORNEY GENERAL KOSTER: And what 24 would the culture of the system that you work in 25 tolerate in terms of enforcing that type of</p>	<p>Page 179</p> <p>1 perhaps for the prosecuting attorneys with the 2 number of people that they have available. The 3 courts think they have a crises with the number 4 of cases that they're moving. I'm just saying 5 that Boone County is not St. Louis County or 6 Independence or Jackson County, but we move a 7 fair number of cases in Boone County. And I 8 believe that you could ideally set three to four 9 months as a very realistic goal as the 10 suggestion by the Missouri Supreme Court to have 11 cases disposed.</p> <p>12 MR. LAMB: Are you talking on the 13 associate level or the circuit level?</p> <p>14 JUDGE DANIELS: I'm saying that on the 15 associate level if you took care of that, you 16 would take care of the lion's share of the cases 17 that move to the circuit division.</p> <p>18 ATTORNEY GENERAL KOSTER: Greg, how -- 19 if that type of recommendation made it into the 20 report how would OSCA take something like that?</p> <p>21 MR. LINHARES: OSCA would refer that to 22 the appropriate supreme court committee to study 23 that and whether or not that would be 24 recommended up to the Supreme Court. The 25 Supreme Court may want to give that a look to</p>

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1 the Civil Rules Committee -- or I'm sorry,  
 2 Criminal Rules Committee, and the Family Law  
 3 Committee maybe have some comments.  
 4 So it would probably be incumbent on --  
 5 and Judge Daniels, I think, is on a committee  
 6 with regards to that so she could make this  
 7 happen more than me. So again, it's not OSCA's  
 8 -- we would staff that but it would probably be  
 9 a recommendation of the Criminal Rules Committee  
 10 as to whether or not that would be something  
 11 they would want to recommend at the Supreme  
 12 Court and take it from there.

13 ATTORNEY GENERAL KOSTER: We'll go back  
 14 on track. We've digressed with all these  
 15 questions, but continue on.

16 JUDGE DANIELS: I think that's an  
 17 important component of -- I think if the entire  
 18 system works together we get more fair  
 19 resolution of the charge that all of us have to  
 20 operate the system to deliver justice both to  
 21 the victims and to the people who are involved  
 22 in it. And I think there are many tools that  
 23 are out there that if you pay attention to, you  
 24 can get some very -- no magic wand but some  
 25 exciting things happen to make a big difference.

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1 ATTORNEY GENERAL KOSTER: Does the term  
 2 unified docket mean the civil side plus the  
 3 criminal side in front of the same judge? What  
 4 does -- when you use the term unified docket,  
 5 what do you mean?

6 JUDGE DANIELS: So far from my  
 7 perspective the only place that unified has  
 8 meaning right now is there are courts who are  
 9 doing unified docket, meaning one judge, one set  
 10 of rules for the civil side. And if it's not  
 11 one judge there is a concerted judicial approach  
 12 to help those cases get resolved. So you have  
 13 that on the civil side and you have that on the  
 14 criminal side. There's some thought that we  
 15 should try to blend that concept of a unified  
 16 approach by however many judges you need to  
 17 handle the volume of cases and combine civil  
 18 with criminal. I'm not so sure about that  
 19 because the rules are so different, but we could  
 20 certainly increase communication between what  
 21 we're doing on the civil side and what we're  
 22 going on the criminal side.

23 My example about them calling from the  
 24 jail to have me set an emergency ex parte,  
 25 that's fine. It should be one of the tools in

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1 ATTORNEY GENERAL KOSTER: Did you have  
 2 a question, Mary?

3 REPRESENTATIVE STILL: No.

4 ATTORNEY GENERAL KOSTER: Do you have  
 5 other circuits around the State that you would  
 6 sort of direct our attention to, other circuits  
 7 aside from this one that you really feel are  
 8 moving well?

9 JUDGE DANIELS: All of the circuits are  
 10 moving well. If we're being recorded I am here  
 11 to tell you that all Missouri circuits are in  
 12 great shape.

13 I think St. Louis County has tried to  
 14 get a unified docket with regard to what is  
 15 going on on the civil side with orders of  
 16 protection, and Judge Burton and I have been in  
 17 communication about how we can, as part of the  
 18 educational process in the college, put in  
 19 something that shares what our experience has  
 20 been to date.

21 I think in Buchanan County they're  
 22 trying to move forward with some sort of docket  
 23 or court with regard to what the prosecutor's  
 24 office is doing up there with regards to what is  
 25 going on.

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1 the toolbox, but some of them were calling me  
 2 about adjusting the bond -- pre-set bond on a  
 3 misdemeanor in Boone County is \$1,000. Unless  
 4 the judge moves then to increase that bond with  
 5 the information provided by the prosecutor, it's  
 6 going to cost \$100 to get out of jail.

7 ATTORNEY GENERAL KOSTER: You don't  
 8 have the civil side docket?

9 JUDGE DANIELS: No. I have just the  
 10 criminal side.

11 ATTORNEY GENERAL KOSTER: What are the  
 12 benefits -- or why haven't you gone to that kind  
 13 of a setup in your court? Why -- are you -- is  
 14 it a decision that has been made not to bring  
 15 the two dockets together or is it just something  
 16 that --what are your thoughts on it?

17 JUDGE DANIELS: I think change is  
 18 always hard. I think we're still working  
 19 through the change of trying to get the criminal  
 20 docket in a unified format. I will tell you  
 21 that without appropriate communication criminal  
 22 defense attorneys may not be real enthusiastic  
 23 about this. Before I ever did this in Boone  
 24 County I talked to the criminal defense  
 25 attorneys. I talked to the public defenders. I

<p>1 talked to Ms. Coble. I talked to the 2 prosecuting attorney's office. I talked to 3 probation and parole. I talked to the family 4 counseling center who is the center here in 5 Boone County who is responsible for trying to 6 look at providing batterer's intervention or 7 cognitive behavior therapy.</p> <p>8 I had to get approval from the court en 9 banc because I set many, many -- in my division 10 where the probation officer is not recommending 11 that the probation be revoked. I'm simply 12 asking him to come in and visit with me which 13 increases Ms. Blakemore's job considerably, but 14 I think it's an important component from where I 15 read the literature.</p> <p>16 I think the social science literature 17 on this is pretty clear that if you select 18 appropriately those people for cognitive 19 behavior therapy and close monitoring your 20 chances of reducing recidivism are the greatest.</p> <p>21 ATTORNEY GENERAL KOSTER: I'm still at 22 a loss. I don't understand the systematic 23 benefits to having the civil decisions made by 24 one judge and the criminal decisions made by 25 another judge particularly in a larger circuit</p>	<p>Page 186</p> <p>1 side first. In Boone County we have 11 judges. 2 We have four associates and one commission. 3 Before 2008 what would happen is the domestic 4 violence dockets would be spread amongst those 5 four judges. When they all started coming to my 6 division, unless we were going to keep the 7 courthouse open until eight o'clock at night, 8 there had to be something that gave a little bit 9 in order for me to have all 1300 of those cases.</p> <p>10 In addition to a criminal docket I do a 11 probate docket, and I do a probate docket for a 12 First Class County involving involuntary mental 13 health commitments, decedent's estates, 14 guardianships and conservators, trust 15 litigation, and I get to see people from the 16 Attorney General's Office on sexually violent 17 predator trials.</p> <p>18 If I were to pick up -- and I'm not 19 even sure what the numbers are on orders of 20 protection. 4,000, 5,000? How many orders of 21 protection --</p> <p>22 MS. REDDIN: It's usually 20 to 30 a 23 docket approximately.</p> <p>24 JUDGE DANIELS: Okay. So if I pick up 25 those dockets also, assuming that I would find a</p>
<p>1 like Jackson where the --</p> <p>2 JUDGE DANIELS: It's the numbers. It's 3 the numbers of cases that you would have to have 4 one judge process.</p> <p>5 ATTORNEY GENERAL KOSTER: Isn't it the 6 same number of judges? You just split the 7 distribution? I mean, if there are 100 cases -- 8 let's say theoretically you've got 100 criminal 9 cases and 100 civil cases and you give that to 10 two judges, each one has still got 100. If you 11 split them 50/50 each judge still has 100. 12 You're still going to need the same number of 13 judges but at least there would be coordination 14 in how the civil matter is being decided and how 15 the criminal matter is being decided. I'm not 16 educated on this topic. I don't understand the 17 system benefits with the exception that a 18 defense attorney might think, oh, it's better if 19 I can, you know, play one off against another 20 and they don't all know what I know.</p> <p>21 I don't understand the system benefits 22 of splitting the decisions with regard to a 23 single subject being a defendant on two sides of 24 the civil/criminal divide.</p> <p>25 JUDGE DANIELS: Let me answer criminal</p>	<p>Page 187</p> <p>1 judge who would be happy to move that off of my 2 docket, where would I find that in my day to add 3 those civil side to the criminal cases? And 4 crime filings I'm not going to touch, but the 5 statistics are what we're reporting on crime or 6 anything else like that in Boone County. I'm 7 just saying we aren't seeing decreases in the 8 number of criminal cases that are filed in Boone 9 County.</p> <p>10 MR. LAMB: You brought up an 11 interesting point of something that we discussed 12 somewhat in St. Louis; the idea of probation. 13 I'd be very interested in your observations on 14 the -- the most effective means that you would 15 suggest for managing -- most effective and 16 efficient means for managing misdemeanor or 17 domestic violence probation orders. Obviously, 18 probation and parole has had very limited 19 resources, and misdemeanors do not generally 20 tend to be at the height of where the resources 21 are devoted. How would you suggest the best way 22 to manage those cases are?</p> <p>23 JUDGE DANIELS: I think like many 24 things you have -- the judge has to be cognizant 25 of the resources that you have available. I</p>

<p style="text-align: right;">Page 190</p> <p>1 think it starts by if I have a person who has a      2 history of domestic violence and they come in      3 recommending a suspended execution of sentence,      4 I'm going to look at supervised probation for      5 that person. And then I'm going to realize that      6 that criminal case I still have responsibility      7 for as a judge.</p> <p>8 My responsibility as a judge, I      9 believe, translates into me following diligently      10 to make sure that the conditions of probation      11 have been complied with and that I am providing      12 sufficient support to probation and parole. And      13 to do those things it means that whether the      14 report comes to me as a probation violation      15 report with a recommendation for a continuance,      16 whether it comes to me as a notice of citation      17 or whether it comes to me as a case history      18 summary, if I do not believe that the person is      19 efficiently utilizing the tools that the system      20 has given that person to be successful on      21 probation, they come in and see me. Again, no      22 magic wand. But I think the show cause hearing      23 does quite a bit to establish that I'm paying      24 attention and that it's not just a      25 get-out-of-jail card free. It is a change in</p>	<p style="text-align: right;">Page 192</p> <p>1 any day I want to. And then I say Defendant is      2 ordered to appear on a warrantable issue, and if      3 they don't come in I'm issuing an order for      4 failure to obey judge's orders, not for      5 probation violation.</p> <p>6 Now, Boone County is lucky. We also      7 have adult court services through the court      8 system which is judicial probation to a certain      9 extent where we have officers that are employed      10 through the court system that follow the people,      11 and what I have said about probation and parole      12 applies to that also. Not everyone necessarily      13 needs the services to get them to the tools      14 where they need to be, and for those people      15 unsupervised probation works also.</p> <p>16 What we try to do in Boone County is in      17 addition to providing an environment where      18 everyone can get together and find the courtroom      19 that they need to be in, which is an important      20 thing, we try to meet three or four times a year      21 between probation and parole, defense attorneys,      22 prosecuting attorneys, the court system, the      23 clerk's office to discuss what our problems are      24 and how we can more effectively manage what's      25 going on.</p>
<p style="text-align: right;">Page 191</p> <p>1 the behavior that results in that person being      2 successful on probation.</p> <p>3 MR. LAMB: Will you as a judge, sua      4 sponte, issue a show cause or will you on      5 misdemeanor --</p> <p>6 JUDGE DANIELS: Yes.</p> <p>7 MR. LAMB: -- wait for a motion to      8 revoke from the prosecutor's office?</p> <p>9 JUDGE DANIELS: Well, if I'm going to      10 revoke the person's probation, I believe both      11 under Chapter 559 and under Constitutional Rules      12 of Procedural Due Process that person has to      13 have notice of why I would be revoking their      14 probation. A show cause hearing is just an      15 opportunity for them to come in and visit with      16 me. I can for sure issue that order any time I      17 want to, and the way my orders read is Court      18 reviews, whatever it is from probation and      19 parole, or we have adult court services that      20 does probation periods, and I was going to reach      21 that in a minute, or just this matter of      22 unsupervised probation. If I happen to remember      23 the name and know the person has been on my      24 docket before and they get a new file, I can ask      25 them to come in and visit and to share with me</p>	<p style="text-align: right;">Page 193</p> <p>1 ATTORNEY GENERAL KOSTER: Thank you.      2 MR. LAMB: Thank you.</p> <p>3 JUDGE DANIELS: And going back to the      4 question I heard addressed about the weapons.      5 Understanding that there's federal law on      6 dangerous instruments and deadly weapons, I      7 certainly make it a condition of probation which      8 I can do right now, no deadly weapons, no      9 dangerous instruments during the probation      10 period. And then when they're -- when they say      11 to me I am -- I possess many firearms that I      12 inherited from my great-great grandmother who      13 was related to Daniel Boone. What would you      14 have me do with these weapons? I always say      15 probation is a privilege and if at anytime you      16 want to come off of probation, you can come off      17 of probation and we can execute the sentence. I      18 cannot force you to stay on probation. But if      19 you want to stay on probation these are the      20 circumstances of what you need to do.</p> <p>21 REPRESENTATIVE STILL: It's their      22 choice.</p> <p>23 JUDGE DANIELS: It is always their      24 choice. I cannot make anybody be successful on      25 probation. I can simply give them the tools and</p>

<p>1 feedback that I'm paying attention to how 2 they're doing on probation. And that's all I 3 can ever accomplish because those other 4 decisions are up to them with regard to how -- 5 what they want to do, how they want to proceed.</p> <p>6 ATTORNEY GENERAL KOSTER: I don't mean 7 to rush you, but we're about 10 minutes over. 8 Were there -- are there a few other points that 9 you would like to make or --</p> <p>10 JUDGE DANIELS: Hopefully -- I really 11 appreciate the opportunity to share with you 12 all. I do think that there are some tools out 13 there that can be utilized and that would be 14 important. And so I never wanted to come in 15 here with the illusion that I might have all of 16 the answers, but I do think we can all within 17 the parameters of where we are, without new 18 legislation, help provide some answers towards 19 solving the domestic violence problem. I 20 appreciate the Attorney General's Office in 21 bringing us all together so we can talk and go 22 forward and do better things.</p> <p>23 ATTORNEY GENERAL KOSTER: Well, this 24 whole task force was -- you weren't here at the 25 beginning of the day, but it was Colleen's idea.</p>	<p>Page 194</p> <p>1 and you did it by your own willpower and 2 determination and effective communication. I 3 truly appreciate it, and boy were you right.</p> <p>4 JUDGE DANIELS: Thank you very much. 5 So I will go back and do a criminal docket. I 6 would love to hear the rest of it, but I need to 7 go back and handle some domestic violence cases 8 on the criminal side. Thank you all, and I'll 9 look forward to the report. Thanks again. Good 10 to see you all.</p> <p>11 ATTORNEY GENERAL KOSTER: Thank you. 12 Mary Ann Allen is next to the table. She is the 13 executive director of Haven House in Poplar 14 Bluff. She drove about as far as you can drive 15 from here and still stay in Missouri. Welcome. 16 Thank you for making the trip, and we're going 17 to talk for the next several minutes about the 18 challenges of serving rural communities. 19 Mary Ann, the floor is yours.</p> <p>20 TESTIMONY</p> <p>21 BY MS. ALLEN:</p> <p>22 Thank you. The last time I was invited 23 to speak at the Attorney General hearing on 24 domestic violence I got to meet Mr. Ashcroft, 25 and then when I heard this was the second one, I</p>
<p>Page 195</p> <p>1 I think she approached both candidates in the 2 general election, and I think both of us equally 3 promised that we would get it done which is an 4 indication of the bipartisan respect that 5 everybody in Jeff City has for Colleen and the 6 importance of the issue. Thank you again for 7 your presentation. As always it was incredibly 8 learned and precise, and thank you for a 9 lifetime of service to the State in many 10 different aspects.</p> <p>11 JUDGE DANIELS: Thank you all. And I 12 had a probate docket and didn't have any request 13 to reinstate the permit to carry concealed. So 14 we haven't had one of those in Boone County yet, 15 although I have one maybe going to be filed.</p> <p>16 MS. COBLE: If I could just add a 17 public declaration of my being wrong and you 18 being right.</p> <p>19 JUDGE DANIELS: No. I just think -- 20 you know, what is that old saying?</p> <p>21 MS. COBLE: Our first meeting of 22 talking about doing the docket, and I just 23 didn't think it could be done as quickly, as 24 cleanly and clearly as you have shown. What 25 you've done is created a model for the State,</p>	<p>Page 197</p> <p>1 wasn't offended why I hadn't been invited back. 2 I have been the executive director of 3 Haven House for 23 years so I have seen some 4 changes. Sometimes I think a lot of us in the 5 rural areas feel that the more things change, 6 the more things stay the same. So we do have 7 concerns. I was fortunate enough last week to 8 spend a good part of the week with all of my 9 colleagues from around the State, and so I was 10 able to talk with them about, you know, what is 11 it that you want me to tell this panel about 12 what our problems are, and not surprisingly most 13 of us had the very same concerns.</p> <p>14 I'm really happy to hear today that all 15 of the folks from the other disciplines were 16 thinking about those problems and ways to 17 address them and have some really good answers. 18 I was really glad to hear that, and that gives 19 me a chance to keep my presentation short. 20 I also want to make the point that we 21 don't live in Boone County, and we've heard a 22 lot this morning about how things work in Boone 23 County. That is not rural Missouri. It does 24 not even resemble what we are doing in out-state 25 Missouri. So I just wanted to make that point</p>

<p style="text-align: right;">Page 198</p> <p>1 is that we do not have the resources, the    2 manpower, that kind of community to make that    3 work.</p> <p>4 We also have other challenges that are    5 practical and get in the way of that, and so we    6 understand that. We do a lot with a little bit,    7 and I'm really proud of the accomplishments of    8 all the rural programs in Missouri.</p> <p>9 We opened -- in fact, we're celebrating    10 our 25th anniversary at Haven House. So we're    11 one of the oldest rural programs in Missouri and    12 I'm real proud of that. We started with 19    13 beds, four residents a day, you know. Then it    14 started picking up steam in the early '90s and    15 so we had to add on beds to get up to 27. But    16 at that same time my board said, you know, this    17 is not the answer to just keep adding beds for    18 families in crisis. We need to be meeting that    19 need sooner, and so we started doing a    20 coordinated community response to domestic    21 violence before that became the buzz word.</p> <p>22 What we do is we realized that people    23 should be allowed to stay in their homes.    24 Domestic violence programs everywhere, and    25 really in rural areas, are serving extremely</p>	<p style="text-align: right;">Page 200</p> <p>1 So we looked at that and started a    2 simple court advocacy project, and what we saw    3 that -- the same judge we had then we continue    4 to have, and he's a wonderful judge. At that    5 time he was seeing like 20 percent of folks who    6 were asking for orders of protection were coming    7 to full orders -- for hearings to get their full    8 orders. That was frustrating to the clerks. Of    9 course, it was. It was frustrating to law    10 enforcement. It was frustrating to him, and it    11 was frustrating to women being victimized.</p> <p>12 So we got an advocate in our    13 courthouse, employed by us, not by the court,    14 not by the prosecutor. By us as the advocate.    15 And she -- we have had someone in place since    16 1995 there, and almost immediately out of the    17 shoot we saw about 85 percent of women coming    18 back to get full orders who asked for ex partes.    19 So the first year we had about 200 women. Now    20 we're up to about 600 women a year asking for --    21 coming to talk to the civil court advocate about    22 what she can do to stay safe in her own home.</p> <p>23 So the advocate works -- and this is    24 only in Butler County because, you know, you    25 need to have somebody there every day. Not on</p>
<p style="text-align: right;">Page 199</p> <p>1 poor women. When I found myself in a situation    2 where I had to make an escape, it didn't matter    3 if I lost my furniture. It didn't matter if I    4 lost my lease because my parents fixed that for    5 me, and then my job allowed me to transfer with    6 the State of Missouri. So all of those things    7 were in place that that move was -- you know, it    8 helped me be able to make that leap into the    9 next part, better part of my life.</p> <p>10 The women we serve, they come from a    11 very different background. Their families are    12 often dysfunctional, they've been in that cycle    13 of poverty, they've been victims of child abuse    14 of their own, and that's not to say that they're    15 more likely to be battered than anybody else,    16 but they just have fewer resources. And so    17 we're serving those folks. And we said, they    18 especially need to stay in their homes because    19 if they lose their couch or they lose their    20 lease, there's nobody to buy them a new couch    21 and there's nobody to give them a lease next    22 year. And if they have violence occur in their    23 public housing apartment, they never get back    24 in. So it's really important that we give them    25 those tools.</p>	<p style="text-align: right;">Page 201</p> <p>1 Tuesday one week and Thursday the next because    2 women get battered every day. And so we have    3 now gotten up to 87 percent pretty much every    4 year; between 85 and 89 percent of the women who    5 ask for ex partes come back to their full    6 ordered hearing. They come back because from    7 the day they go in to see the clerk upstairs who    8 sends them downstairs or they come into her    9 office, they are explained about the cycle of    10 violence, the effect it has on her children,    11 what her community resources are and what is her    12 responsibility when she has an order of    13 protection because they're not for everybody.    14 You can be in more danger by having one than not    15 having one. And we have to be honest because we    16 believe women are their own best experts.</p> <p>17 ATTORNEY GENERAL KOSTER: Do you see a    18 similar increase in the participation of victims    19 in the prosecution process?</p> <p>20 MS. ALLEN: Okay. What happened there    21 is that we started getting so busy that -- we    22 started out thinking that she could serve    23 everyone. Then we realized that -- as you    24 listened to the judge just now it's mind    25 boggling how complicated that is, that there was</p>

<p style="text-align: right;">Page 202</p> <p>1 no time and energy for one person so we started      2 a part-time person based in the prosecuting      3 attorney's office hired by us, employed by us as      4 an advocate. This has all been through our      5 coordinating community response. And that has      6 now turned into a full-time position there.      7 We've seen a great increase in the number of      8 cases that are able to be prosecuted. We have      9 -- we had 388 reported incidents of domestic      10 violence in Butler County. 40,000 people live      11 there. That's probably fairly typical. So, you      12 know, we're seeing in those small counties      13 around us more like 60 or 75. Those are      14 counties where an advocate could handle all of      15 that, but not where my civil court advocate did      16 six -- I think there was six applications last      17 Friday morning before lunch.</p> <p>18 You know, so there's a lot of expertise      19 that goes into the criminal court side but the      20 very same results. You have someone -- she's      21 picking up reports at the police station, at the      22 sheriff's department. She's looking through      23 those. She's making phone calls. She's      24 explaining to women that this is -- you know,      25 this is not Movie Of The Week and this is not</p>	<p style="text-align: right;">Page 204</p> <p>1 houses over and over. You know, when they see      2 that women know they're supposed to call, and      3 they're supposed to call every time, and they're      4 supposed to ask for a report, a copy of my      5 information report I just gave you, sir. And      6 they're supposed to have their pictures taken      7 and they're supposed to keep these. You know,      8 when they understand that, most of them will do      9 it, and it makes everybody's job easier.</p> <p>10 Some things that we agreed across is      11 that respondents need to be served ex partes in      12 a timely manner. We are seeing people not get      13 served in jail. Now that -- you know, you can      14 find them. It's the same department. And      15 that's everywhere. I'm not just speaking about      16 our county. But that's what I'm hearing is that      17 these are things that need to be done. They      18 have a right to a hearing in 15 days. And women      19 have a right to get those orders of protection      20 and move on with their lives, not continue to      21 have them continued and to stress about that and      22 finally just give up and say now I don't even      23 want it. You know, and to get things decided      24 like custody, you know, if there's going to be a      25 divorce. I mean, there are things that really</p>
<p style="text-align: right;">Page 203</p> <p>1 Law And Order. This is going to take a long      2 time. And this is what you need to do. Do you      3 have people to help you? Do you want me to be      4 your support system? This is what the      5 prosecutor is going to need from you. So she      6 becomes that family that most of us have when      7 we're in a crisis. She becomes that person for      8 the folks who don't have that.</p> <p>9 And we see the same thing in civil      10 court and criminal court that we see in the      11 shelter. People using those services tend to      12 not have the resources that many of us do. If      13 your family has resources you're not going to      14 end up -- as likely end up in the criminal court      15 system. You're going to work things out.      16 You're not going to -- it's not going to rise to      17 that. We very often have to become that support      18 system.</p> <p>19 We've seen that work really well down      20 there with minimal amount of money, but      21 certainly it's about a community effort. And      22 we're seeing that work in other communities too.      23 That once women understand we would like to --      24 we would hope that that would reduce the angst      25 of police officers who keep going to the same</p>	<p style="text-align: right;">Page 205</p> <p>1 need to happen so that people can move on with      2 their lives.</p> <p>3 We have the problem that women can live      4 15 miles from us and not have a clue how to get      5 there because they don't have a car. I'm not a      6 big proponent of sending advocates into      7 dangerous situations, so if they can get to the      8 Casey's General Store or they can call a cab to      9 get them somewhere, we'll be happy to pay any of      10 those expenses or pick them up. But, you know,      11 there are lots of folks we're serving that they      12 don't have a car. They're not even on the paved      13 road. You know, they're sitting in a trailer      14 court and everybody in every other trailer is      15 his aunt. They're not getting a ride to the      16 shelter. That's how it is.</p> <p>17 So we have a whole set of problems of      18 trying to reach people and serve them. We know      19 that police officers are supposed to get victims      20 to a safe place, but we also know when there's      21 one road deputy he or she doesn't really have      22 time to haul somebody from, you know, Neelyville      23 all the way up to Poplar Bluff when there's      24 another call going on. So all those things come      25 into play. We know that's a problem. So that's</p>

<p>1 one of the things we say we don't know the 2 answer but it is a problem.</p> <p>3 Across the board everybody said get law 4 enforcement some training. And I know they get 5 training, but I loved hearing this morning that 6 we would even entertain the idea of ongoing 7 required domestic violence training. There's 8 ongoing POST training but that's also pick and 9 choose to fit those areas, not on topic.</p> <p>10 So it would be a wonderful thing if we 11 could refresh that from the top down because 12 there are cultures in every community, there are 13 cultures in every business, there are cultures 14 in every service area and office, and we all 15 know that. And so there needs to be a culture 16 in law enforcement that this is a priority. 388 17 reports in our county is more than one a day. 18 There probably aren't very many crimes that 19 there are more than one a day of. So we know it 20 is a big deal. So we feel like that is an 21 example right there.</p> <p>22 I also appreciated when we talked about 23 getting certification for police departments. 24 I'm on my health department board, and our 25 health department had to be certified to pass</p>	<p>Page 206</p> <p>1 is that one judge gave it to his brother to 2 hold. Well, batterers don't just come out of 3 nowhere, and so we know that that may not be the 4 safest place to store a gun when your brother is 5 looking for somebody. So those are things to 6 think about.</p> <p>7 Another interesting thing that came up 8 that you're not going to hear in St. Louis or 9 Kansas City. There's this black powder season 10 for hunting. Do you know what that is? It's a 11 muzzle gun thing. It's not a firearm because it 12 doesn't fire. So we've had situations recently 13 guys are driving by their victim's homes with 14 these black powder things going I'm not in 15 violation of anything because it's not a gun. 16 That's about power and control and manipulation. 17 And those are the kinds of things that we really 18 -- if we're going to stop domestic violence we 19 have to remember that people who choose to 20 batter understand power and control. Which 21 leads me to my next topic, and that is 22 batterer's intervention.</p> <p>23 Batterer's intervention needs to have 24 some teeth in it. Does it work? I don't know. 25 It's pretty new. I went to the Duluth Model</p>
<p>1 all these tests to get to -- so it raises you up 2 a level. I think that's a wonderful idea as 3 part of maybe domestic violence being a 4 component of that, that when, you know, they're 5 looking at funding or whatever, that they have 6 worked towards those goals of excellence in 7 serving victims of domestic violence. So that 8 would be something.</p> <p>9 We want to get those guns out of those 10 batterer's hands. Missouri is No. 7 in the 11 number of women killed by their partners. That 12 is nothing to be proud of.</p> <p>13 ATTORNEY GENERAL KOSTER: Where is that 14 statistic accessed from?</p> <p>15 MS. ALLEN: Department of Justice.</p> <p>16 MS. COBLE: Department of Justice 17 released it Thursday.</p> <p>18 MS. ALLEN: We tied with Arkansas. So 19 that's not a good thing. And most of those 20 probably were killed by guns. I don't know 21 that.</p> <p>22 MS. COBLE: Majority.</p> <p>23 MS. ALLEN: One thing that -- and we're 24 in a situation now in the rare cases that we 25 hear in our circuit where the guns are removed</p>	<p>Page 207</p> <p>1 Training, and that's the one we use, 26 weeks. 2 What we see is people who can afford attorneys 3 get those dealt down to nothing or anger 4 management which is just kind of silly for 5 someone who uses power and control. They manage 6 their anger very well. But we see men who tend 7 to be in the same situation don't have a lot of 8 resources. They also -- if they end up on 9 probation, we don't see a lot of times that 10 that's a priority through the Department of 11 Corrections for our probationers to do that. We 12 don't see especially with private probation that 13 there's a real push for them to complete that.</p> <p>14 We feel like if you get sentenced to 15 batterer's intervention that should be one of 16 the first things you sign up for. That's 26 17 weeks you're committed to. Everybody knows you 18 would miss a few weeks along the way, but you 19 should not get to wait 3-1/2 years on a 5-year 20 probation to start batterer's intervention when 21 there's someone in danger out there. You can do 22 financial management later. You can do all 23 kinds of things later, but that is critical, and 24 it doesn't always happen.</p> <p>25 Another thing about batterer's</p>

<p>1 intervention is we cannot leave victims out      2 there by themselves while their abusive partners      3 are going through batterer's intervention. We      4 need to have -- we have an outreach advocate      5 assigned especially just to those women whose      6 partners or former partners are in batterer's      7 intervention because we know the danger will be      8 heightened when they're in a class telling them      9 that they've made bad choices or -- you know,      10 and they're working through some of their own      11 things.</p> <p>12 One thing also when we talked about the      13 circuit clerks that I have -- what we have done      14 there, and I know they've been cross-trained and      15 everybody knows how to do everything, and that's      16 a great theory for all the many things that      17 clerks do. We have one clerk who we paid for      18 and we had to like -- she had to go through      19 volunteer training otherwise she couldn't come      20 to the training for this, but we tricked the      21 Coalition. No. No. We made her go -- she came      22 and she went through volunteer training, became      23 a real volunteer at Haven House and she did      24 volunteer on the side. I'm just joking.      25 Then she was allowed to go to State</p>	<p>Page 210</p> <p>1 counties don't have an advocate?      2 MS. COBLE: More than half.      3 MR. LAMB: I don't know the exact      4 number, but there's a significant number, and we      5 could get those.</p> <p>6 REPRESENTATIVE STILL: And where are      7 most of the advocates stationed? In the clerk's      8 office? In the prosecutor's office?</p> <p>9 MS. COBLE: It depends.</p> <p>10 MR. LAMB: It does depend.</p> <p>11 MS. ALLEN: You know courthouses.      12 They're vying for space. You know, we'll take a      13 broom closet if we can get it. But we have nice      14 offices. We have one -- one of ours is in the      15 prosecutor's office. She's the criminal one, of      16 course. And then the other one is just      17 downstairs and has an office. I mean, we get      18 moved around once in a while, but in return      19 we've done some remodeling and decorating and --      20 I mean, we barter.</p> <p>21 ATTORNEY GENERAL KOSTER: Again, I have      22 another uneducated question. If having a clerk      23 assist in the filling out of a form runs the      24 risk of practicing law without a license, and if      25 that's the rationale, why isn't the same</p>
<p>1 conference and to some court advocacy training,      2 and what we got from that clerk in the office      3 was buy-in. She was no longer handing people a      4 piece of paper and going oh, it's my turn again.      5 Because they have a million things to do and the      6 woman is always upset and all those difficult      7 things, but once you really understand you're --      8 then you're really an advocate. You can't help      9 yourself. So I don't have to worry if Jennifer      10 is stuck in court all day long. I have somebody      11 in the clerk's office who will be taking care of      12 those folks and will be calling downstairs to      13 say he's in there. He's in jail. Those kinds      14 of things that are just a little bit beyond what      15 they have to do, but that's certainly a way that      16 we can -- that we can collaborate. And those      17 counties that can't afford to have an advocate,      18 if we could have somebody say, you know, I could      19 step up and do that. Maybe that's not possible.      20 I don't know, you know, to do that in all      21 offices, but I think it's a matter of really not      22 saying that's just one more thing we have to do      23 but this is something that I'll be willing to      24 do.</p> <p>25 ATTORNEY GENERAL KOSTER: How many</p>	<p>Page 211</p> <p>1 rationale applicable to an --      2 MS. ALLEN: It is. We don't do it      3 either.</p> <p>4 ATTORNEY GENERAL KOSTER: Okay. So if      5 you don't do it either what -- why --      6 MS. ALLEN: And here's our dilemma.      7 We're not allowed to write on the paper. You      8 know, you can -- it's about telling them which      9 kind of order to get, right? I mean, those are      10 the kind -- you don't want to give that kind of      11 advice. But to say I don't know what that word      12 means. It was pointed out by one of my      13 colleagues today that many of our clients who      14 come in don't know how to read and write.      15 That's the truth. And you might say I think      16 incident is spelled I-N-C-I -- you know, so that      17 the judge can read them when they get them, but      18 they have to do that themselves and it takes      19 awhile.</p> <p>20 ATTORNEY GENERAL KOSTER: So when you      21 train the advocates there's a limit to which you      22 will allow them to participate in the      23 decision-making process filing out that form?</p> <p>24 MS. ALLEN: Right. Right.</p> <p>25 MS. COBLE: So that you might be saying</p>

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1 what's helpful here is for a judge to know the  
 2 first thing that happened or what was the worst  
 3 thing that happened to you, what was the most  
 4 recent thing that brought you into the clerk's  
 5 office today that makes you so afraid right now.  
 6 So those kinds of things. But if you're -- it's  
 7 a fine line, and it can be very difficult.

8 MS. ALLEN: And pre-court advocate days  
 9 I went to courthouses -- five different  
 10 courthouses and it was one of these numbers.  
 11 And you know, they're hard to read and you have  
 12 this much space, and she said, he said he would  
 13 kill me and the judge goes so. What he needs to  
 14 know is that he held a gun to my head last year.  
 15 He did this to me six months ago. He said, he's  
 16 going to kill me. I believe it. The judge  
 17 might believe it too, but he or she has to have  
 18 that information. And so that's the kind of  
 19 assistance that's given. Not what you should  
 20 apply for or not -- you know, and not writing it  
 21 out. So you have to walk a fine line.

22 ATTORNEY GENERAL KOSTER: If I could  
 23 ask a question of Greg? Greg, what is the --  
 24 what would the clerks' reaction be to Mary Ann's  
 25 suggestion that the clerks are trained on this

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1 the ex partes. They're also doing divorces.  
 2 They're doing name changes. They're doing --  
 3 you know, that's the problem.

4 ATTORNEY GENERAL KOSTER: Thank you.  
 5 MR. LINHARES: It's where the facts end  
 6 and the law begins. I mean, that's the question  
 7 really.

8 REPRESENTATIVE STILL: A question for  
 9 Christy or anyone else. Is it acceptable if  
 10 there were a trained volunteer to have them  
 11 stationed at a clerk's -- in a clerk's office?

12 MS. BLAKEMORE: Of course, yeah. And  
 13 we've got them -- the prosecutor's office,  
 14 they're up there and they help out a lot. True  
 15 North helps in Boone County a lot. If they --  
 16 if it is one that is very difficult, a detailed  
 17 one, lots of times we will suggest to them you  
 18 might want to go, you know, talk to the shelter.  
 19 We'll be happy to give you the paperwork, but if  
 20 you're going to need additional assistance,  
 21 maybe a place to stay, then a lot of times we  
 22 will suggest that to them. They don't have to,  
 23 but we'll suggest it.

24 MS. ALLEN: In our situation that's the  
 25 first thing that they do is say the advocate is

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1 in order to partially sensitize them to it, if  
 2 they're trained also to stop at a certain level  
 3 of advice or counseling that they can provide?

4 MR. LINHARES: There's a clerk sitting  
 5 right behind me so I might defer to Christy more  
 6 than --

7 ATTORNEY GENERAL KOSTER: Would you  
 8 identify yourself for the record?

9 MS. BLAKEMORE: Christy Blakemore,  
 10 Circuit Clerk, Boone County.

11 ATTORNEY GENERAL KOSTER: Blakemore?

12 MS. BLAKEMORE: Uh-huh.

13 ATTORNEY GENERAL KOSTER: Welcome.

14 MS. BLAKEMORE: Thank you. We would be  
 15 happy to do that. And I think a lot of ours is  
 16 we don't have that background, that mindset of  
 17 an advocate. You know, we've got the mindset of  
 18 we've got to get this paperwork done as quickly  
 19 as possible, get it to the judge, and I've got,  
 20 you know, 20 more sitting over here that have to  
 21 be processed. That's our mindset. If we had  
 22 the people to do that, I think across the board  
 23 clerks would be happy to help out in that area.  
 24 We just don't.

25 They're not -- clerks aren't just doing

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1 downstairs. This is where her door is, by the  
 2 Coke machine. You know, but because we have  
 3 that luxury of being in the courthouse.

4 MS. COBLE: It's real hard to do that  
 5 with a volunteer; to have any consistency.

6 MS. ALLEN: I would say impossible.

7 MS. COBLE: It's been tried and not  
 8 worked.

9 MS. LAMB: But it can work. I came  
 10 from Audrain County which is a rural county so I  
 11 empathize with you. Absolutely. And our  
 12 circuit clerk had a relationship worked out with  
 13 the local shelter, which I was on the board of,  
 14 and that individual was a paid individual, and  
 15 they were stationed at that office, and that  
 16 made a world of difference. So those creative  
 17 solutions are out there.

18 MS. COBLE: Well, and I might add too,  
 19 probably the only time that bright line gets  
 20 drawn, quite frankly, between you're assisting  
 21 and you are providing legal advice is if there's  
 22 been some other conflict in the community  
 23 involving those players. If it's helpful to  
 24 have those forms filled out very cleanly, you  
 25 are not likely to be in trouble for unauthorized

<p>1 practice of law. If there has been any type of      2 public conflict between the judiciary and other      3 members of the community then all of a sudden      4 there's a line. And I encountered that. You      5 know, that all of a sudden then everything had      6 to be checked by legal services which meant that      7 things couldn't get done. And it was just a      8 point of personal conflict.</p> <p>9 If you get together in those      10 coordinated community response meetings you can      11 actually avoid that and maybe get some greater      12 clarity on where those lines are.</p> <p>13 ATTORNEY GENERAL KOSTER: The broader      14 point goes again to the Sheriff's Association      15 message from earlier which is there are a lot of      16 enforcement agencies besides law enforcement      17 themselves that need -- that would benefit from      18 training.</p> <p>19 MS. ALLEN: Right.</p> <p>20 ATTORNEY GENERAL KOSTER: Continue.</p> <p>21 MS. ALLEN: I have one thing to add on      22 the gun issue is that my civil court advocate      23 told me that probably 50 to 60 percent of the      24 victims that she works with report that guns are      25 involved in the abuse committed against her. So</p>	<p>Page 218</p> <p>1 of you guys. As you said, I'm the executive      2 director of the Kansas City Anti-Violence      3 Project, and we work with lesbian, gay, bisexual      4 and transgender victims of violence and that      5 includes domestic violence.</p> <p>6 Thank you to the Attorney General for      7 bringing up the LGBT issue. We're very excited      8 to have Joan Gummels who we've worked with in      9 Kansas City a little bit and to have the LGBT      10 related human rights complaints come out. We      11 were pleased to see that. And thank you for      12 including the LGBT voice in the discussion of      13 domestic violence, and thank you to the rest of      14 the panel as well.</p> <p>15 I don't know if you guys received a      16 power and control wheel, or if you've seen them      17 before, but this is something that we use      18 specifically in the LGBT community. There are a      19 few more spokes on that wheel that you won't see      20 on the other wheels that typically use gender as      21 a screening tool and as the binary to talk about      22 domestic violence.</p> <p>23 So the Kansas City Anti-Violence      24 Project grew out of a gap in services; a very      25 identified gap; a murder/suicide that happened</p>
<p>1 it's not like occasionally someone has a gun.      2 It's half the time there's a gun involved. And      3 we're No. 7. There's a reason for that.</p> <p>4 ATTORNEY GENERAL KOSTER: Any other      5 questions for Mary Ann?</p> <p>6 REPRESENTATIVE STILL: I want to say      7 thank you for your outstanding service.</p> <p>8 MS. ALLEN: Thank you.</p> <p>9 ATTORNEY GENERAL KOSTER: Thank you for      10 your service and for a great presentation. We      11 appreciate it.</p> <p>12 Savitsky?</p> <p>13 MS. SAVITSKY: Yes.</p> <p>14 ATTORNEY GENERAL KOSTER: Beth Savitsky      15 who is in from Kansas City today who is the      16 executive director of the Kansas City      17 Anti-Violence Project is welcome. She has      18 driven to Columbia today to offer personal      19 perspectives on the domestic violence issue.      20 Thank you again for making the drive and joining      21 us.</p> <p>22 TESTIMONY</p> <p>23 BY MS. SAVITSKY:</p> <p>24 Thank you very much for having me here      25 today. I'm honored to sit at the table in front</p>	<p>Page 219</p> <p>Page 221</p> <p>1 actually on the Kansas Metro Side of two gay      2 men. So the community started talking if the      3 victim, who was a gay male, was to call the      4 domestic violence hotline, would he receive      5 services, and the answer was no. Typically what      6 would happen is that someone would hear a male      7 voice on the hotline and say I'm sorry, we don't      8 serve men and hang up on him.</p> <p>9 So we recognized the use of gender as a      10 screening tool when working with domestic      11 violence victims and formed our own      12 organizations to address the issue of violence      13 in our own LGBT communities. We worked closely      14 with the Missouri Coalition Against Domestic and      15 Sexual Violence. We're also part of the sister      16 organization, The Kansas Coalition, and we also      17 worked a lot with the National Coalition of      18 Anti-Violence Programs that works with      19 organizations that deal with LGBT victims across      20 the State.</p> <p>21 We received our 51(c)3 in 2003 so we're      22 a fairly young organization. We've participated      23 in domestic violence reports with the FCADSB, as      24 well as nationally there's an annual report that      25 talks about LGBT victims of domestic violence.</p>

<p>1 That's released every year, the only report of      2 its kind. So to talk a little bit about the      3 population that I'm referring to, LGBT      4 communities, we talk about LGBT folks being      5 about 10 percent of the community. Sometimes      6 people argue that it's not quite that many. So      7 if we use a rough estimate of 5 percent of the 6      8 million folks in the State, that's about 300,000      9 people in the State of Missouri that identify as      10 LGBT. We're affected by domestic violence in      11 quite the same ways and at quite the same rates.      12 It's 1 in 4. So that's potentially 74,844      13 people in the State of Missouri that need help.</p> <p>14 Over the last seven years we've grown      15 out of very intense collaborative relationships      16 with other service providers, a growth of our      17 services, a growth of need for our services, and      18 we have a unique mission. We're the only agency      19 in Missouri that works specifically with LGBT      20 victims. We're a non-residential program. We      21 offer direct services to victims as well as      22 outreach and education that partners with other      23 groups and organizations to educate them on the      24 topic.</p> <p>25 Our direct services program helps folks</p>	<p>Page 222</p> <p>1 in his job if anyone found out, and he had a      2 place to live away from his abuser.      3 Since we began we've served over 270      4 victims; victims and survivors of domestic      5 violence. We've also provided almost 170 safe      6 bed nights to victims. Again, we're      7 non-residential. We partner a lot with hotels,      8 with community -- with our hotel partners as      9 well as transitional living programs in the area      10 that we've worked with.</p> <p>11 As you can see on the power and control      12 wheel there are a few tactics that LGBT folks      13 experience that non-LGBT folks don't. In terms      14 of using someone's identity against them in the      15 power and control context, those can be very      16 powerful tools. If someone really -- if part of      17 who you are is part of the abuse, it's a very      18 difficult thing to work out. And we also have      19 to navigate other systems very carefully because      20 we don't necessarily have the same opportunities      21 and protections as everyone else.</p> <p>22 Our outreach and education program goes      23 out to the community to advertise our services      24 as well as train a whole bunch of people. We've      25 trained over 2700 people in the State of</p> <p>Page 224</p>
<p>1 with crisis intervention, case management,      2 emergency assistance; a lot of the other      3 services that you will see in similar programs,      4 as well as having an LGBT resource guide of      5 folks that we've screened to be LGBT or LGBT      6 friendly. So it's not an obstacle for folks who      7 are calling for help to worry, well, if I tell      8 them that I'm gay, is that going to be an issue,      9 or are they going to tell me well, you know, if      10 you partnered with someone of the opposite sex,      11 you wouldn't have this problem.</p> <p>12 We've helped folks like Jake. Jake was      13 one of our clients. He was with his partner for      14 11 years. His partner continually threatened to      15 out him to his employer. He was a high school      16 teacher. He was very concerned about losing his      17 job, a very real thing that can happen. His      18 partner would oftentimes emotionally berate him      19 while he beat him and tell him that no one would      20 care if he was not in this world because it's      21 one less gay man to deal with.</p> <p>22 He found out about KCAVP, and we worked      23 with him to relocate him to a school that had      24 protection. There are certain areas of the      25 State that have protection. And so he was safe</p>	<p>Page 223</p> <p>1 Missouri since we've started. This includes      2 information about issues of homophobia,      3 biphobia, transphobia, the terminology of LGBT      4 issues, how to support LGBT victims if they      5 disclose that they are LGBT, how to talk about      6 intake forms, gender neutral language, those      7 kinds of things. So we recognize that those      8 barriers are system wide and sometimes we have      9 to, again, navigate those systems very      10 carefully.</p> <p>11 ATTORNEY GENERAL KOSTER: Can I ask you      12 a question?</p> <p>13 MS. SAVITSKY: Sure.</p> <p>14 ATTORNEY GENERAL KOSTER: I think this      15 is the only area of State law in which State law      16 expands to the LGBT community in any regard. Do      17 you find that in the Jackson County area or more      18 broadly than that that the courts are responding      19 to needs, concerns, situations in an open and      20 unbiased fashion?</p> <p>21 MS. SAVITSKY: Sure. Well, yes and no.      22 A lot of the times folks don't want to go to      23 court because they have to out themselves in      24 court, and so basically their relationship is      25 out on the table for everyone to see. So a lot</p> <p>Page 225</p>

<p>1 of times folks don't want to even get a      2 protection order because it outs them. When      3 they do oftentimes -- there have been mutual      4 orders that have been granted. There have been      5 occasions where judges have ordered for there to      6 be -- I've forgotten the word. Where they --      7 where there's -- where they talk to each other.      8       MR. LAMB: Mediation.</p> <p>9       MS. SAVITSKY: Thank you. There you      10 go. I lost my words. Rather than order an      11 issue they don't recognize; that because it's      12 two men or two women that there is power and      13 control of the situation. Depending on the      14 judge they -- it varies. Most of the time if      15 they -- our advocate and staff is becoming more      16 and more apparent in the community, and they'll      17 recognize that we are just the same kind of      18 victim as anyone else, and they'll take the case      19 seriously.</p> <p>20       ATTORNEY GENERAL KOSTER: And for that      21 group of people who reach out to you for      22 overnight shelter services, are you able to      23 serve -- so far have you been able to serve all      24 of the requests, some of the requests? Do you      25 have to turn away -- are you able to --</p>	<p>Page 226</p> <p>1 utilize a lot of the same funding that other      2 programs do and so those are some of the funds      3 that will help us pay for hotels.      4       ATTORNEY GENERAL KOSTER: Continue.      5       MR. SAVITSKY: Sure. So as I was      6 talking about the education outreach that we do,      7 we like to weasel our way in sometimes to      8 unfriendly places, but we always try and talk to      9 friendly places, whether it's other service      10 providers, schools, law enforcement, courts.      11 We'll really try and get to other groups and      12 say, you know, when you're talking about abuse      13 and relationships are you really making sure      14 that you're not leaving certain communities out      15 of the services that you're providing.      16       So we talk about victims of domestic      17 violence coming from all different communities,      18 and unfortunately, we're not always included in      19 the discussion. So again, I really appreciate      20 that. We couldn't have done what we do without      21 the help and support from other communities and      22 other folks that recognize that domestic      23 violence is an issue for everyone and it doesn't      24 leave certain communities out.      25       So again, thank you for the time today,</p>
<p>1       MS. SAVITSKY: Occasionally we do have      2 to turn away. Typically because it's short-term      3 and that's -- it's a safety issue, we usually      4 will be able to meet that request. If the issue      5 is longer term we like to talk about safety      6 issues, what's going to happen after two days.      7 If it's not -- if they're going to go back, can      8 we talk about safety issues going back, or if      9 they want to get out of town we've oftentimes      10 worked with another anti-violence program      11 somewhere else to transport the individual to      12 either another shelter or transitional living      13 program somewhere else that there's more support      14 or if they have family and friends get them out      15 of town as well.</p> <p>16       ATTORNEY GENERAL KOSTER: How many      17 hotel chains do you work with?</p> <p>18       MS. SAVITSKY: Currently there's three.      19 We're always looking for more partners.</p> <p>20       MS. KOSTER: Are they large corporate      21 hotels or are they --</p> <p>22       MS. SAVITSKY: It just depends on the      23 manager; the relationship that we have with that      24 hotel manager. Because of the gender neutral      25 language in all of the grants that we get we</p>	<p>Page 227</p> <p>1 and thank you for your dedication to making      2 Missouri safer for everyone. I appreciate it.      3       ATTORNEY GENERAL KOSTER: Thank you.      4 Mary?      5       REPRESENTATIVE STILL: I am going to      6 have to leave, but, Beth, I want to say this is      7 very enlightening, and you have a lot of      8 courage, and I appreciate that. And, General,      9 thank you for your leadership on this issue.      10 Colleen, as always, thank you.      11       ATTORNEY GENERAL KOSTER: Any other      12 questions for Beth? Thank you very much for      13 your --      14       MS. COBLE: Are there specific      15 resources that would help your program in      16 certain ways, do you think? I'm thinking      17 particularly because there are so few other      18 identified focused programs like yours. Is      19 there anything that that -- it places you in a      20 unique position of need for -- you are a      21 statewide resource in that regard.      22       MS. SAVITSKY: Well, we really do rely      23 on our partner agents across the State. So when      24 we talk to an advocate in Jeff City about      25 someone who is in their area that can't get to</p>

<p style="text-align: right;">Page 230</p> <p>1 Kansas City, it's helpful having those -- having      2 that education for those other programs, talking      3 about, well, if you have someone who sounds male      4 on the phone how to not -- how to work with that      5 person successfully. So, you know, training,      6 which you guys do. You know, we come to annual      7 conference. We come to other regions to talk      8 about how to work with LGBT agencies. So we've      9 really found that other agencies are open to      10 hearing the information.</p> <p>11 In terms of resources, you know, we're      12 a staff of four. So we are a very small      13 program. It's always nice to dream about a      14 bigger staff and more advocates being able to do      15 more outreach to more locations. So maybe --      16 you know, looking at a regional issue across the      17 State of Missouri.</p> <p>18 ATTORNEY GENERAL KOSTER: Thank you      19 very much, Beth.</p> <p>20 Our next and final witness today is      21 Katherine Wessling. Welcome. Katherine is      22 managing attorney for Legal Advocates for Abused      23 Women, and is here to offer a civil      24 practitioner's perspective on these issues.</p> <p>25 TESTIMONY</p>	<p style="text-align: right;">Page 232</p> <p>1 is for there to be changes so that the judges      2 have to address child custody and child support      3 issues. Because in many, many of our cases they      4 will say okay, we're giving the order of      5 protection but all the rest of that stuff, go      6 file for divorce, go file for paternity, do      7 whatever you need to do. And the whole point of      8 the order of protection is to get immediate      9 relief so that this relationship can end in a      10 safe and viable way. And if the only thing that      11 the courts are willing to do is to make the      12 blanket order don't abuse anymore, we are      13 ignoring all of these practical problems that      14 are the reasons why people return to a      15 relationship that is not healthy. It is not      16 because they like the relationship. It is      17 because they need to feed their children,      18 because they don't have a place for them to      19 sleep at night. So ignoring all those parts of      20 the statute is a huge problem, and it happens      21 many, many times. And I serve seven counties,      22 and it's almost a universal problem.</p> <p>23 ATTORNEY GENERAL KOSTER: So the Judge      24 Michael in St. Louis who testified.</p> <p>25 MS. WESSLING: Burton.</p>
<p style="text-align: right;">Page 231</p> <p>1 BY MS. WESSLING:      2 Good afternoon.</p> <p>3 ATTORNEY GENERAL KOSTER: Thank you,      4 Katherine.</p> <p>5 MS. WESSLING: Thank you for having me      6 here. As you said, I work for Legal Advocates      7 for Abused Women which is a non-profit agency in      8 St. Louis, and the only things we do there in      9 terms of legal assistance are orders of      10 protection. So in my time there I've probably      11 done almost 3,000 of those. I've been there      12 since 1996. We serve seven counties, and we do      13 serve the LGBT community as well. So we do try      14 to help where we can.</p> <p>15 What I'd like to do today for you is to      16 tell you what I and others in the community,      17 because I took a little bit of a poll when I      18 knew I was coming today, have identified in      19 Chapter 455, the Adult and Child Order of      20 Protection Statute, of places where we could      21 really use some help. So I'm going to go over      22 those, and then I have them for you in written      23 form, but I don't want you reading them. I want      24 you to listen.</p> <p>25 Universally the thing that people want</p>	<p style="text-align: right;">Page 233</p> <p>1 ATTORNEY GENERAL KOSTER: Does Judge      2 Burton when he handles these orders deal with      3 child support issues?</p> <p>4 MS. WESSLING: He would, but he      5 primarily is in the juvenile courts. And my      6 orders of protection don't go in front of him.      7 They go in front of the family court judges who      8 are doing divorce and paternity and that kind of      9 thing.</p> <p>10 ATTORNEY GENERAL KOSTER: Do some      11 judges deal with the child support and custody      12 issue?</p> <p>13 MS. WESSLING: Some will. Some will.      14 But there's resistance from many of them.      15 There's resistance from more of them than there      16 is acceptance by the others. That's      17 unfortunately what we face.</p> <p>18 ATTORNEY GENERAL KOSTER: Who makes the      19 request to the judge to even deal with that,      20 because a petitioner may go in front of the      21 judge ex parte and not know to ask these things?</p> <p>22 MS. WESSLING: Well, hopefully they      23 were given help when they filled out the form,      24 the petition for the order of protection,      25 because it's a check box that they can check</p>

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1 off. And so hopefully they checked the box off  
 2 when they filled out the petition for the order  
 3 of protection. If they didn't, of course, then  
 4 we have a due process issue and we can't just  
 5 walk in and say now we want to do this. But  
 6 hopefully they have checked the box, and many  
 7 times they have checked the box. That's not our  
 8 problem. It's just resistance by the Court.

9 ATTORNEY GENERAL KOSTER: Can you deal  
 10 with these issues prior to a full order? If  
 11 you're in a temporary order situation without  
 12 the admission of evidence and you have no idea  
 13 what his salary is and you really only have a --  
 14 you don't have a good view of what has happened  
 15 last night or earlier tonight. A judge is not  
 16 equipped to make such decisions at that juncture  
 17 or do you disagree?

18 MS. WESSLING: They're not equipped to  
 19 make child support decisions, and I don't really  
 20 quibble with that. Sure I'd like to have it  
 21 there, but I understand the legal reasons why  
 22 they're not going to jump in and start doing  
 23 that. At the ex parte level they can make  
 24 custody determination, and that, again, on  
 25 occasion has been a problem where the judges

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1 that than almost anything else from what I see.  
 2 ATTORNEY GENERAL KOSTER: With all the  
 3 experience you have in the legislature how do  
 4 you think the legislature reacts to such an  
 5 idea? And maybe if it was confined to the full  
 6 order.

7 MS. COBLE: But the moment of danger is  
 8 for the children as well, and the premise of an  
 9 emergency order of protection is I am in danger,  
 10 and I need assistance from the courts. The  
 11 children do not live on planet child. They are  
 12 with their mom more typically, and yet they --  
 13 that unit of the family that can be together  
 14 safely is not recognized. And there's hesitancy  
 15 within the General Assembly.

16 There's been hesitancy from the bench  
 17 that that is -- that is the side door divorce,  
 18 and -- which I think is an incorrect framing of  
 19 the issue because it's 15 days of safety.  
 20 Surely we can grant 15 days of safety. If the  
 21 judge has sufficient information to believe  
 22 there is a risk of danger to sign the order to  
 23 begin with, that's sufficient for 15 days these  
 24 children are in the custody of this person who  
 25 says that they're at risk and need to be

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1 choose to -- there are four things they could  
 2 issue with the ex parte level. They can order  
 3 not to abuse, that whole thing. They can order  
 4 to make the abuser leave the home. They can  
 5 have the abuser not communicate with the victim,  
 6 and they can give custody of the children to the  
 7 person who filed.

8 ATTORNEY GENERAL KOSTER: Is that in  
 9 the statute now?

10 MS. WESSLING: Yes. That's in the  
 11 statute now. And it's very judge specific as to  
 12 whether they will actually go ahead and make  
 13 that custody order. That custody order can  
 14 cause someone problems if they don't make it  
 15 because we have a child snatching issue going on  
 16 and people are afraid to send their children to  
 17 school. So it really -- it shouldn't  
 18 necessarily be laying a premise for what will  
 19 happen farther down, because I agree the judges  
 20 haven't heard the evidence yet. But at least to  
 21 tell people what the ground rules are instead of  
 22 this 15-day waiting period where everyone is  
 23 just in a free for all. So it's a real problem.  
 24 And many more people will dismiss their  
 25 petitions and give up on the court system over

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1 protected.  
 2 ATTORNEY GENERAL KOSTER: Joan, I'd be  
 3 interested in knowing Judge Daniels' view on the  
 4 custody and child support issue. It's really --  
 5 it's a powerful idea but a lot of aspects to  
 6 consider.

7 MS. COBLE: The custody provision has  
 8 been there since 1980.

9 MS. WESSLING: Yeah. It's just whether  
 10 they use it or not. And what you'll kind of see  
 11 -- that's my first point because it's so  
 12 prevalent, is almost everything I'm going to say  
 13 has that same common thread running through it,  
 14 that we are looking at she's prob -- is she  
 15 making this all up to get an advantage in the  
 16 divorce. That's unfortunately a very prevalent  
 17 fear in the courts, and unfortunately a lot of  
 18 times I'm battling against that presumption  
 19 rather than a feeling of we want to help a  
 20 person who's really in danger.

21 So we have that as Point 1. Point 2 is  
 22 there's a provision in the statute, 455.050,  
 23 that says if -- that the courts of full order  
 24 can only issue a custody order if there's no  
 25 prior order already out there existing or

60 (Pages 234 to 237)

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<p>1 pending regarding custody.</p> <p>2 Now, this pending word is a problem</p> <p>3 because what will happen is my client will file</p> <p>4 an order of protection. We will go for the</p> <p>5 hearing two weeks later, and the day of the</p> <p>6 court hearing the respondent will walk in with</p> <p>7 his attorney and say I filed for divorce five</p> <p>8 minutes ago, and the judge will say okay. That</p> <p>9 wipes everything out. We'll deal with whether</p> <p>10 we're going to order him away from you or not</p> <p>11 but we're not going to deal with custody,</p> <p>12 support, anything like that.</p> <p>13 She may not have been served. There's</p> <p>14 no hearing set that's going to deal with any of</p> <p>15 these issues, but for many judges because that</p> <p>16 word pending is in there they will interpret it</p> <p>17 that way. As soon as something is filed they</p> <p>18 consider it pending, and without service they</p> <p>19 don't even have jurisdiction over it yet, but</p> <p>20 they will still consider it pending. And so</p> <p>21 that's a real common way for abusers and their</p> <p>22 lawyers to make the order of protection process</p> <p>23 very meaningless for the person who needs the</p> <p>24 protection.</p> <p>25 It would really help if we could have</p>	<p>Page 238</p> <p>1 each other anyway. Well, the problem is after</p> <p>2 years of being told no one is going to believe</p> <p>3 you, no one believed you. So it really gives</p> <p>4 the courts an out to not fact find. We need the</p> <p>5 courts to do their fact finding to figure out</p> <p>6 who they think is the person asserting the power</p> <p>7 and who isn't. And when mutual orders of</p> <p>8 protection are allowed, it just doesn't happen.</p> <p>9 So I would really like to see the law be strong</p> <p>10 enough to say there are no mutual orders of</p> <p>11 protection.</p> <p>12 If two people are violent -- and</p> <p>13 violence and abuse are two different things. If</p> <p>14 two people are violent maybe neither one needs</p> <p>15 the order of protection. Speaking from my own</p> <p>16 perspective on that. But if someone is actually</p> <p>17 being abused, we need the courts to make a</p> <p>18 decision on who it is and then to move forward</p> <p>19 to protect that person. So I would suggest that</p> <p>20 you look at that because that's a real problem</p> <p>21 for victims as well.</p> <p>22 Another bootstrapping thing that comes</p> <p>23 in is paternity. A lot of people who file</p> <p>24 orders of protection are not married to each</p> <p>25 other or they haven't gone through already a</p>
<p>Page 239</p> <p>1 some adjustment to that word in the statute. I</p> <p>2 understand if there's an existing order that's</p> <p>3 already in existence and there are other ways to</p> <p>4 modify that, but when there's no order already</p> <p>5 out there and it's just maybe some day we'll get</p> <p>6 one, it's a problem. And so that -- that goes</p> <p>7 along with that first one.</p> <p>8 There is a provision we fixed not long</p> <p>9 ago -- well, probably a little while ago now</p> <p>10 about mutual orders of protection. The statute</p> <p>11 right now says there's no mutual order of</p> <p>12 protection that can be entered unless both</p> <p>13 parties have filed a petition asking for an</p> <p>14 order of protection against the other. You</p> <p>15 can't walk in with one person having filed and</p> <p>16 suddenly say you both have an order of</p> <p>17 protection against the other. Well, the problem</p> <p>18 is the same thing.</p> <p>19 The abuser or the other side will walk</p> <p>20 in the day of hearing or maybe right after they</p> <p>21 got served, file for an order of protection, and</p> <p>22 the easiest thing for the Court to do is to say</p> <p>23 why don't we just say stay away from each other.</p> <p>24 We'll give you both an order, and what's the</p> <p>25 problem with that if you don't want to be around</p>	<p>Page 241</p> <p>1 legal lawsuit to figure out if dad is the dad of</p> <p>2 the child. So what happens is, you know, 10</p> <p>3 years into this child's life no orders of child</p> <p>4 support have gone on the whole time. There's</p> <p>5 been nothing in concrete saying he's the dad.</p> <p>6 Mom files a child's order of protection and</p> <p>7 suddenly it's I want every other weekend with</p> <p>8 the child, and they're skipping the whole</p> <p>9 establishing that they're the legal father in</p> <p>10 the first place. You know, it's like have the</p> <p>11 cake but I didn't want to pay for it first kind</p> <p>12 of thing.</p> <p>13 I think it would really help if the</p> <p>14 statute would clarify that without a legal</p> <p>15 establishment of paternity there shouldn't be</p> <p>16 visitation discussion. There also shouldn't be</p> <p>17 child support ordered because maybe he's not</p> <p>18 really the dad. I mean, I'm not saying I want</p> <p>19 it all either, but it needs to be established</p> <p>20 before the order of protection process, not in</p> <p>21 the middle of it just because everybody knows</p> <p>22 he's dad and now we're going to pretend like the</p> <p>23 paternity laws aren't relevant anymore. It</p> <p>24 happens a lot that way.</p> <p>25 I'll admit that with my clients</p>

<p>1 sometimes that will put them at a little      2 disadvantage because they want that child      3 support, but there are more of my clients who      4 are worried about the safety of their children      5 then there are clients who are doing it for      6 child support.</p> <p>7 ATTORNEY GENERAL KOSTER: Do you worry      8 that that determination could delay the process      9 for weeks and maybe a couple months? What's it,      10 a DNA determination?</p> <p>11 MS. WESSLING: Well, I don't think      12 that's an order of protection issue. The order      13 of protection process should go on. It's      14 separate.</p> <p>15 ATTORNEY GENERAL KOSTER: Paternity.</p> <p>16 MS. WESSLING: Paternity can go be its      17 own thing. Someone can file for paternity. If      18 they want visitation rights, do it the way the      19 law has set up for it. Don't mix it in with the      20 order of protection. I think they're two      21 separate things, and they should be kept      22 separate.</p> <p>23 Okay. This one is a little bit -- this      24 is one that came from some advocates who work      25 with the police department. In the order of</p>	<p>Page 242</p> <p>1 stalking cases, because our judges are getting      2 really, really cynical when they sit through an      3 hour of a whole bunch of neighbors fighting over      4 something, and then I walk up with my client who      5 is in real danger. They're so burned out after      6 that last hour they don't even want to hear it      7 anymore. So I think we're -- without letting      8 down the stalking victims because it's a very      9 serious matter, I think we need to look at      10 whether these need to be two separate      11 situations.</p> <p>12 ATTORNEY GENERAL KOSTER: That's a very      13 interesting point.</p> <p>14 MS. WESSLING: I think it would help      15 the judges out too. The dockets would change      16 dramatically if we did that. Going back to the      17 visitation issue. If paternity has not been      18 established then what we have is the problem      19 where the Court says well, if we don't know that      20 that's dad, we can't issue an order giving mom      21 custody because we don't know that there isn't      22 another dad out there. He's not a party to this      23 case, and we can't make an order that adversely      24 affects his rights which I can understand.      25 Instead could the statute or the judges</p>
<p>1 protection process we have mostly standing      2 categories that require some sort of intimate      3 partner relationship between the parties, but      4 then we have this catchall about stalking, and      5 what happens is that people go and file      6 petitions of orders of protection alleging      7 stalking when their neighbor has their tree      8 hanging over their driveway and won't cut the      9 branch off, or there's a big fight among a whole      10 bunch of kids in the neighborhood.</p> <p>11 I was in the courtroom not two weeks      12 ago when the judge called the case and 10 people      13 stood up because the entire block was there.      14 You know, they're fitting these other situations      15 into this process because of the way the      16 stalking has been injected. Now, obviously true      17 stalking by some creepy person who saw you at      18 the gym and is now following you around, that's      19 a real problem and I don't think we should      20 ignore it.</p> <p>21 I'm wondering if a better way to handle      22 purely stalking without intimate partner      23 connections going on is to put that in a      24 separate type of proceeding so that these family      25 court cases don't get bogged down with the</p>	<p>Page 243</p> <p>1 look at wording such as okay, we're not giving      2 someone custody but we're saying this person      3 doesn't have custody. This is a dangerous      4 person who has been abusive to the adults in the      5 situation. We're not saying she has custody but      6 we're saying he does not. I think that's one      7 way to get around it. It doesn't infringe on      8 anybody else's rights, but the way our forms are      9 set up right now doesn't really include that      10 option, and I think that would make the judges a      11 little more comfortable if we gave them      12 something like that.</p> <p>13 I would really like to see more      14 emphasis on understanding impact on children of      15 domestic violence because pretty much what we      16 see is okay so it's between mom and dad but he      17 has a right to see the kids. I realize I'm      18 using the she/he language, and I don't mean to      19 offend. Obviously, it works the other way in      20 those cases, but this is what I tend to work      21 with so I fall into those pronouns.</p> <p>22 I would really like to see that when      23 child orders of protection are involved --      24 because they order a guardian ad litem in those,      25 the attorney for the children. The ABA section</p>

<p>1 of family law has standards for attorneys      2 representing children in family law cases, and      3 the most basic one is that they meet with the      4 child before they come to court. I can't tell      5 you how many times that does not happen, and the      6 immediate approach is let's just work out joint      7 custody. That immediately puts the victim of      8 domestic violence in the category of the problem      9 parent because they have reasons why they think      10 that's not appropriate. And so I would really      11 like to see imbedded somehow into the child      12 order of protection statute requirements that      13 the court voir dire a guardian ad litem prior to      14 them participating as an attorney to make sure      15 they fit these family law standards.</p> <p>16 I wish I didn't have to say that      17 because there are a lot of good guardian ad      18 items out there, and they're doing exactly what      19 they should do, but there are also cases where      20 it's seen as I'm not going to get any money out      21 of this, and I'm not educated in domestic      22 violence, and quite frankly the courts want them      23 to mediate. They don't want them to represent      24 the best interest of the child. They want the      25 guardian ad litem to be a mediator, and that's</p>	<p>Page 246</p> <p>1 Well, if you haven't heard anything, of course,      2 they aren't taking the abuse seriously because      3 they don't want to talk about that part. They      4 want to figure out how can we exchange the kids      5 so that the parties don't see each other and      6 what's the appropriate amount of child support.      7 Honestly, I believe that the judges      8 feel that they are doing a good thing in that      9 because they're thinking well, she's getting the      10 order of protection so why would there be a      11 problem. So I think their hearts are in the      12 right place because I do -- that is where      13 they're coming from, but they're not getting to      14 the nuance of what's going on here. They're not      15 addressing how that power and control is      16 infiltrating all these parts of their lives, and      17 how it's affecting the kids.      18 I went and spoke at Sanford Brown      19 College the other day and -- about domestic      20 violence, and a young woman raised her hand      21 who's about 20 now and said this happened with      22 my parents. She said they sent me off with my      23 father every other weekend, and it was just      24 awful. He spent the whole time asking me about      25 my mom and talking about how horrible she was.</p>
<p>1 not their role. It's not their role at all.      2 I would like to see some language      3 emphasizing what their role really is because      4 it's not happening on its own that way. And      5 along with that I would like to see in 455.050,      6 again, that if there's a finding that domestic      7 violence has occurred. Right now what's      8 happening in practice is that the person who has      9 alleged the domestic violence and has filed for      10 the order of protection is the one who also      11 bears the burden of proving domestic violence is      12 affecting the children adversely. And I would      13 like to see that flipped. And if the judge has      14 already determined that domestic violence is      15 happening, that burden ought to shift over to      16 the person who's doing the abuse to say this is      17 why visitation won't hurt the children.      18 I say after a finding has been made      19 because I think that that should be the basis      20 for almost everything we're doing here. It      21 seems to come in at the very end. You know, in      22 these order of protection cases we go in and the      23 first thing everyone wants to do is sit down and      24 talk about all right what can we work out so      25 that we don't have to have a hearing on this.</p>	<p>Page 247</p> <p>1 And no, he wasn't hitting her but that was a      2 horrible thing to do to a child.      3 I really hope that some of the children      4 who have been in these situations as they grow      5 up are able to start to come forward in      6 testimony to you as well and to others about      7 what their experience was like with the laws      8 that we've been existing under because their      9 perspective has really not been heard very well.      10 And I think that -- I was really glad she was      11 brave enough to raise her hand and say that. I      12 really was.      13 And the final thing that I would like      14 to see in my little list of Top 10 is that      15 recent case law did clarify that guardian ad      16 litem fees are court costs and that a petitioner      17 who files because they do not pay court costs      18 for an order of protection should not have to      19 pay that. Well, because it's in case law not      20 all the judges are aware of that, and especially      21 if the person doesn't have a lawyer they often      22 will get hit with half the GAL fees or something      23 like that. So I think it would be nice if the      24 statute would certify that for our judges      25 because we've already got it in case law.</p>

<p>1 So these are my Top 10. I believe I      2 have included the most important things that      3 people have told me. I won't claim that anyone      4 automatically subscribes to this. So if some      5 legal services attorney says I didn't say to      6 voir dire GAL's then they probably didn't. I      7 have this for you with the statutory sites for      8 each thing that I mentioned. I also have the      9 statutory summary chart of domestic violence      10 civil protective orders nationwide that's      11 produced by the American Bar Association      12 Commission Against Domestic Violence. I didn't      13 know if you already had access to that, but I      14 brought it.</p> <p>15 ATTORNEY GENERAL KOSTER: I don't know      16 that I've seen that. I'm glad you brought it.      17 Your presentation was excellent. I probably      18 agree with, I don't know, a lot of them. But      19 even the ones that I wasn't ready to jump on      20 board with, all of them were very, to steal your      21 word, nuanced and well thought out and very      22 concrete.</p> <p>23 Do you have any questions?</p> <p>24 MS. COBLE: I think what you've      25 identified is indeed one of the biggest issues</p>	<p>1 to have more good ideas than we're going to be      2 able to put in one document. They just are      3 terrific.</p> <p>4 I thank everybody for their interest      5 and their passion around such an important topic      6 and for the service that so many of you give on      7 a daily basis but don't get recognized for in      8 helping men and women and children across the      9 State of Missouri work through these difficult      10 situations.</p> <p>11 With that we'll close today's hearing      12 and see you in Kansas City on September 27th.      13 Thank you.</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p>1 that women struggle with around the State, and      2 that is if I can't go there with my kids, I      3 don't want to go. And we seem to reinforce that      4 inadvertently in our systems, and I hope that we      5 can make it right.</p> <p>6 ATTORNEY GENERAL KOSTER: Jason?</p> <p>7 MR. LAMB: My question is just again to      8 thank you and to reinforce. I agree with you in      9 your anecdotes. As a former prosecutor and in      10 private practice with a lot of family law, you      11 are exactly right that it forces a terrible      12 choice for a petitioner who can't afford an      13 attorney to go in pro se and go through this      14 process and to fear sending their child to      15 school because the abuser may lawfully come and      16 take the child and then force them back into the      17 home as a way of manipulation as we've heard so      18 often today repeatedly. So thank you for your      19 insight.</p> <p>20 ATTORNEY GENERAL KOSTER: Well, we've      21 completed about 10 hours of testimony, and the      22 testimony, again, just continues to be very      23 pointed and intelligent and helpful. And I      24 think that there are so many good ideas that are      25 coming out of this that it's -- that we're going</p>	<p>1 Page 251</p> <p>1 C E R T I F I C A T I O N</p> <p>2</p> <p>3 I, Susan M. Fiala, Certified Court      4 Reporter, Registered Professional Reporter,      5 within and for the State of Missouri, DO HEREBY      6 CERTIFY that pursuant to notice/agreement, the      7 aforementioned proceedings were held before me      8 at the time and place hereinbefore mentioned,      9 the proceedings were taken in shorthand and      10 later reduced to printing; and said transcript      11 of proceedings is herewith forwarded to the      12 noticing party.</p> <p>13</p> <p>14</p> <p>15</p> <p>16 Susan M. Fiala      17 Missouri CCR #920, CSR, RPR</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>